

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>WESLEY KEITH HOLMES, JR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 3:07-cv-00241-WKW</b>
	)	
<b>SHERIFF JAY JONES, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS' SPECIAL REPORT**

COME NOW Sheriff Jay Jones, Major Cary Torbert, Jr., and Lt. Corey Welch, Defendants in the above-styled cause, and submit their Special Report to the Court.

**INTRODUCTION**

Wesley Keith Holmes was most recently booked into the Lee County Detention Center on February 1, 2006 on charges of first degree rape and theft of property. (Exhibit A, Inmate File of Wesley Keith Holmes.) During his incarceration at the Lee County Detention Center, Plaintiff plead guilty to first degree sexual abuse and first degree theft of property and received a sentence of 120 months. (Ex. A.) Plaintiff was released from the Lee County Detention Center into Department of Corrections custody on March 28, 2007. (Ex. A.) The Plaintiff was both a pretrial detainee and a convicted inmate during his incarceration at the Lee County Detention Center. (Exhibit B, Affidavit of Cary Torbert, Jr.<sup>1</sup>, "Torbert Aff." ¶ 5.)

**PLAINTIFF'S ALLEGATIONS**

Plaintiff alleges that from "Oct. 31 until present" he found roaches in his food on two different occasions, that black mold is on the cell walls, that he was forced to sleep on the floor for two months because of overcrowding, that a speaker does not work and a toilet leaked water

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<sup>1</sup>Cary Torbert, Jr. serves as Chief Deputy of Corrections of the Lee County Detention Center and has obtained the rank of Major. He has worked with the Lee County Sheriff's Office for over 32 years. (Torbert Aff. ¶ 2.)

“inches from where [he] was sleeping.” Plaintiff requests \$1,500.00 a day for each day he was incarcerated in the Lee County Detention Center after he was sentenced. Plaintiff also requests that the Lee County Detention Center be “shut down.” (Plaintiff’s Compl. p. 2-4.)

### **DEFENDANTS’ RESPONSE TO PLAINTIFF’S ALLEGATIONS**

Defendants deny the allegations made against them by Plaintiff as being untrue and completely without basis in law or fact. Defendants deny that they acted, or caused anyone to act, in such a manner as to deprive the Plaintiff of any right to which he was entitled. (Exhibit C, Affidavit of Sheriff Jay Jones<sup>2</sup>, “Jones Aff.,” ¶ 7; Ex. B, Torbert Aff. ¶ 4; Exhibit D, Affidavit of Lt. Corey Welch<sup>3</sup>, “Welch Aff.,” ¶ 4.) Defendants raise the defenses of Eleventh Amendment immunity, qualified immunity, Plaintiff’s failure to comply with the Prison Litigation Reform Act, and additional defenses presented below. Defendants reserve the right to add additional defenses if any further pleading is required or allowed by the Court.

#### **I. FACTS**

Sheriff Jay Jones has delegated the responsibility for the day-to-day functions of the Lee County Detention Center to Major Cary Torbert, Jr., the Chief Deputy of Corrections of the Lee County Detention Center. As Sheriff of Lee County, Sheriff Jones is responsible for promulgating the policies governing the Lee County Detention Center. (Jones Aff. ¶¶ 4, 6.) Sheriff Jones has no personal knowledge of any of the specific allegations that form the basis of Plaintiff’s Complaint. (Jones Aff. ¶ 5.)

#### **A. CONDITIONS OF CONFINEMENT CLAIMS**

It is the policy of the Lee County Detention Center that inmates are served three meals each day at regularly scheduled times. Strict sanitary practices are followed in the Detention

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<sup>2</sup> Jay Jones is the duly elected Sheriff of Lee County, Alabama, and has served in such capacity since 1999. (Jones Aff. ¶ 2.)

<sup>3</sup> Lt. Welch is employed by the Lee County Sheriff’s Office and assigned to serve as a corrections officer at the Lee County Detention Center. He has worked as a correctional officer for over ten years, having obtained the rank of Lieutenant in November 2004. He is a graduate of the Police Academy and the Alabama Jail Management School. Lt. Roberson and Lt. Welch are the highest ranking jail officials under Major Torbert and Sheriff Jones. (Welch Aff. ¶ 2).

Center kitchen. At least two of these meals are hot and there is no more than 14 hours between the evening meal and breakfast. All meals are served at the appropriate temperature as soon as possible after they are prepared. Hot meals are served using heated carts so that the food is hot when served to each inmate. The individuals who pass out the food are required to wear gloves. (Jones Aff. ¶ 12; Torbert Aff. ¶ 11' Welch Aff. ¶ 10.)

In the event that the number of inmates exceeds the number of beds in the Lee County Detention Center, the inmates will be provided with either a portable bed or a mattress, a blanket, and bed linens. Inmates are never required to sleep on the floor without a mattress. All inmates at the Lee County Detention Center are assigned a mattress, bed linens, and a blanket. (Jones Aff. ¶ 13; Torbert Aff. ¶ 12; Welch Aff. ¶11.)

It is the policy of the Lee County Sheriff to maintain a healthy environment within the Lee County Detention Center for the benefit of both inmates and the Detention Center staff. It is the policy of the Lee County Sheriff that the staff of the Lee County Detention Center maintain strict sanitation practices which will provide persons incarcerated in the Detention Center and members of the Detention Center staff with a healthy and sanitary living and working environment. It is the policy of the Lee County Sheriff's Office to maintain a housekeeping plan at the Lee County Detention Center in order that all areas of the Detention Center are kept clean and sanitary. Inmate housing areas are cleaned by the inmates assigned to that cell at least two times daily. The first and second shift supervisors ensure that appropriate cleaning supplies and equipment are issued to inmates and ensure that inmates are properly instructed to clean their cells and common areas. Each cleaning consists of the following: Floors are swept and mopped. Toilets are scrubbed with toilet cleanser and disinfectant. Sinks and showers are scrubbed with scouring cleanser and disinfectant. Tables and benches are washed. Bunks and sleeping areas are made clean and orderly. Trash receptacles are emptied and washed daily. The shift supervisor on duty will require inmates to re-clean any areas which are not cleaned correctly the

first time. The Lee County Detention Center staff also uses a steam sanitizer on a regular basis to clean the shower areas of the Center. Inmates also have access to cleaning materials at any time during the day so that they may clean their showers. (Jones Aff. ¶ 14; Torbert Aff. ¶ 13; Welch Aff. ¶ 12.)

It is the policy of the Lee County Sheriff's Office to maintain a high level of pest and vermin control within the Lee County Detention Center in order to ensure a minimum level of pest infestation. The chief deputy sheriff ensures that all areas of the Lee County Detention Center are sprayed with insecticide at least once each month. This company will spray more than once a month if necessary. A licensed pest control service is contracted to provide control for vermin and insects. Detention Center personnel utilize this service to the maximum extent allowed in order to prevent and control the infestation of pests and vermin. Shift supervisors ensure that all appropriate areas of the Detention Center are treated with any additional insecticides or powders necessary as directed by the chief deputy. All shift supervisors, when conducting daily housekeeping inspections, look for possible or potential pest problems. (Jones Aff. ¶ 15; Torbert Aff. ¶ 14; Welch Aff. ¶ 13.)

It is the policy of the Lee County Sheriff that the Lee County Detention Center accomplish scheduled maintenance in order to ensure that the Detention Center facility and equipment are kept in good repair. Plumbing should be maintained in a serviceable condition, be free from leakage, have enough pressure to accomplish the tasks intended, and water should be the appropriate temperature. An inmate has the opportunity to notify any officer if any toilet is not in working order, and that officer will either fix the toilet or immediately contact maintenance personnel to fix the toilet. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair any toilet or speaker which is broken. Inmates have access to three or four toilets within their cellblock. There is a toilet in each cell in the cellblock. There is also a toilet in the dayroom of each cellblock. In the

event that a toilet cannot be repaired before the inmates lock down in their cells at night, any inmate housed in the cell with the broken toilet is to be given the opportunity to use the toilet during any time that he needs to during the night. It would be a direct violation of policy for an inmate to ever be denied access to a working toilet. (Jones Aff. ¶ 16; Torbert Aff. ¶ 15; Welch Aff. ¶ 14.)

A member of the Detention Center staff must inspect the entire Detention Center facility at least once each hour. However, at least one Detention Center staff member is normally in each inmate hall at least every 15 to 20 minutes. Thus, staff are always made aware of a broken speaker or toilet. (Jones Aff. ¶ 17; Torbert Aff. ¶ 16; Welch Aff. ¶ 15.)

Neither Sheriff Jones, Major Torbert or Lt Welch are aware of a broken speaker in any cell in which Plaintiff was incarcerated. Due to inmate vandalism and misuse, toilets will often require maintenance at the Lee County Detention Center. However, this maintenance is taken care of as soon as possible. Should a speaker be broken, it would also be repaired as soon as possible. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair items such as toilets or speakers in a prompt manner. (Jones Aff. ¶ 18; Torbert Aff. ¶ 17; Welch Aff. ¶ 16.)

Plaintiff claims that a toilet has a water leak “inches” from where he was sleeping. It would be a violation of jail policy to assign an inmate to sleep in water leaking from a toilet or to assign an inmate to sleep within “inches” of a leaking toilet. (Jones Aff. ¶ 19; Torbert Aff. ¶ 18; Welch Aff. ¶ 17.)

The Plaintiff did not submit a request concerning any of the allegations in his Complaint. Had Sheriff Jones, Major Torbert or Lt Welch received any such a request, they would have taken the proper steps to remedy any problem the Plaintiff was experiencing. (Jones Aff. ¶ 20; Torbert Aff. ¶ 19; Welch Aff. ¶ 18.)

## **B. GRIEVANCE PROCEDURES.**

Internal grievance procedures at the Lee County Detention Center are available to all inmates. It is the policy of the Lee County Sheriff's Office that inmates are permitted to submit grievances and that each grievance will be acted upon. It is the policy of the Lee County Sheriff's Office that members of the Detention Center staff receive and answer any written grievances or requests made by inmates to the sheriff, chief deputy sheriff, or Detention Center personnel. (Jones Aff. ¶ 8; Torbert Aff. ¶ 6; Welch Aff. ¶ 5; Exhibit E, Affidavit of Ray Roberson<sup>4</sup>, "Roberson Aff.," ¶ 5.)

Inmates housed in the Lee County Detention Center are furnished with inmate request forms for the purpose of stating their requests or grievances in writing. Detention Center personnel are charged with the responsibility of receiving and forwarding these forms to the proper authority at any time they are offered a completed form by an inmate. The officer receiving the request form is to answer the request if possible. If that officer is unable to answer the request, he is to forward it to the appropriate individual and/or up the chain of command until the request is answered. If the request form is directed to a particular officer, the officer receiving the request will forward the request to the officer to whom the request is directed. If the officer to whom the request is directed is not on duty that day, the request will be addressed on that officer's next scheduled working day. (Jones Aff. ¶ 9; Torbert Aff. ¶ 7; Welch Aff. ¶ 6; Roberson Aff. ¶ 6.)

All inmates are provided a copy of the Lee County Detention Center Inmate Handbook when they are booked into the jail. The inmate handbook states that an inmate may report a grievance on an inmate request form. Grievances are first answered by the appropriate staff at the lowest level in the chain of command. The inmate handbook also states that if the inmate is not satisfied with the first answer to his grievance, the inmate may appeal all the way up the chain of

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<sup>4</sup> Lt. Roberson is employed with the Lee County Sheriff's Office and serves as Assistant Jail Administrator at the Lee County Detention Center. He has worked in the Lee County Detention Center for twenty-three years and has obtained the rank of lieutenant. Lt. Welch and Lt. Roberson are the highest ranking jail officials under Major Torbert and Sheriff Jones. (Roberson Aff. ¶ 2.)

command, up to the Sheriff, who will make the final decision. (Jones Aff. ¶ 10; Torbert Aff. ¶ 8; Welch Aff. ¶ 7; Roberson Aff. ¶ 7.)

Sheriff Jones, Major Torbert, Lt. Welch and Lt. Roberson have never received any request form from the Plaintiff concerning any of the allegations of his Complaint. Per Lee County Sheriff's Office policy, an inmate has the opportunity to appeal any grievance to Sheriff Jones, Major Torbert, Lt. Welch and Lt. Roberson if he were not satisfied with the response at the lower levels in the chain of command. The Plaintiff has not appealed any grievance to Sheriff Jones, Major Torbert, Lt. Welch and Lt. Roberson. Accordingly, the Plaintiff has failed to exhaust his administrative remedies at the Lee County Detention Center. (Jones Aff. ¶ 11; Torbert Aff. ¶ 9; Welch Aff. ¶ 8; Roberson Aff. ¶ 8.)

A copy of all grievances are filed in the inmate's file. However, Plaintiff's Inmate File contains no grievances regarding the subjects of his Complaint. Had the Plaintiff made a request concerning any other allegations of his Complaint a copy would have been placed in the Plaintiff's inmate file. (Torbert Aff. ¶ 10; Welch Aff. ¶ 9.)

## II. LAW

### A. **All claims by Plaintiff against Defendants in their official capacities must fail based on Eleventh Amendment immunity and because they are not "persons" under 42 U.S.C. § 1983.**

Plaintiff's claims against Defendants in their official capacities are due to be dismissed for lack of subject matter jurisdiction as such claims are barred by the Eleventh Amendment to the United States Constitution. Parker v. Williams, 862 F.2d 1471, 1476 (11th Cir. 1989) (holding a sheriff sued in his official capacity is entitled to Eleventh Amendment immunity); Free v. Granger, 887 F.2d 1552, 1557 (11th Cir. 1989) (holding that a sheriff sued in his official capacity is entitled to Eleventh Amendment immunity); Carr v. City of Florence, Ala., 918 F.2d 1521, 1525 (11th Cir. 1990) (holding a deputy sheriff sued in his official capacity is entitled to Eleventh Amendment immunity); Lancaster v. Monroe County, 116 F.3d 1419, 1430-31 (11th

Cir. 1997) (extending Eleventh Amendment immunity to include jailers employed by county sheriffs).

In addition, the official capacities claims must fail because 42 U.S.C. § 1983 prohibits a person, acting under color of law, from depriving another of his rights secured by the United States Constitution. 42 U.S.C. § 1983 (emphasis added). The United States Supreme Court has held that state officials, in their official capacities, are not “persons” under § 1983. Will v. Michigan Dep’t of State Police, 491 U.S. 58, 71 (1989). Any claims against Defendants in their official capacities should therefore be dismissed because they are not “persons” under § 1983, and therefore claims against them in their official capacities fail to state a claim upon which relief can be granted. Id.; Carr, 916 F.2d at 1525 n.3 (11th Cir. 1990).

**B. Plaintiff’s failure to comply with the Prison Litigation Reform Act bars the Complaint.**

**1. Plaintiff has failed to exhaust all Administrative Remedies.**

Under the Prison Litigation Reform Act (“PLRA”), an inmate is required to exhaust all administrative remedies before instituting an action under 42 U.S.C. § 1983. 42 U.S.C. § 1997e (a). The Plaintiff in this case has not utilized two separate and distinct administrative remedies available to him. First, the Plaintiff has not exhausted the grievance procedures provided at the Lee County Detention Center. Secondly, he has not alleged that he pursued any grievance through the State Board of Adjustment. See Brown v. Tombs, 139 F.3d 1102, 1103-04 (6th Cir. 1998) (requiring prisoners to affirmatively show that they have exhausted administrative remedies). Despite the availability of a grievance procedure at the Lee County Detention Center, Plaintiff did not file a grievance with Sheriff Jones, Major Torbert, Lt. Welch or Lt. Roberson.

In addition to the grievance procedure at the local level, Alabama law provides the opportunity to file a claim and proceed before the State of Alabama Board of Adjustment pursuant to Ala. Code § 41-9-60. The Sheriff of Lee County is a state officer, as are his alter

egos, and therefore would be entitled to sovereign immunity. See Lancaster v. Monroe County, 116 F.3d 1419, 1429 (11th Cir. 1998). Due to this immunity, the State of Alabama has provided an administrative remedy for the recovery of money damages through the State of Alabama Board of Adjustment.

As a result of Plaintiff's failure to exhaust these two remedies, he is barred from bringing this action under § 1997e(a). See Alexander v. Hawk, 159 F.3d 1321, 1326-27 (11th Cir. 1998) (affirming dismissal of prison action due to failure to exhaust administrative remedies).<sup>5</sup>

**2. Plaintiff's claims are barred by the Prison Litigation Reform Act because he has not suffered any physical injury as a result of the allegations in his Complaint.**

42 U.S.C. § 1997e(e) of the Prison Litigation Reform Act requires that a plaintiff demonstrate that he suffered physical injury before instituting a complaint based upon jail conditions. The PLRA states the following concerning physical injury:

No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury. 42 U.S.C. § 1997e(e).

The Eleventh Circuit has determined that the physical injury requirement of § 1997e(e) requires that a plaintiff demonstrate a physical injury that is more than *de minimis* although the injuries do not have to be significant. Harris v. Garner, 190 F.3d 1279, 1286 (11th Cir.), vacated,

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<sup>5</sup> See Terry Shane Williams v. Cecil Reed, et al., United States District Court for the Northern District of Alabama, Middle Division, No. CV-99-BU-2938-M, slip op. at 3-4 (N.D. Ala. August 15, 2000) (adopted by district judge September 21, 2000) (dismissed the plaintiff's claims without prejudice for his failure to exhaust his administrative remedies at the DeKalb County Jail); Richard Dale Woodham v. Bill Lands, United States District Court for the Northern District of Alabama, Middle Division, No. CV-00-AR-0170-M, slip op. at 4-5 (N.D. Ala. November 7, 2000) (adopted by district judge December 4, 2000) (dismissed the plaintiff's claims without prejudice for his failure to exhaust his administrative remedies at the DeKalb County Jail); Quinton M. Johnson v. Sgt. Robinson, et al., United States District Court for the Middle District of Alabama, Eastern Division, No. CV-00-D-616-E, slip op. at 3-5 (M.D. Ala. January 12, 2001) (adopted by district judge January 31, 2001) (dismissing the plaintiff's claims without prejudice for his failure to exhaust his administrative remedies with the State of Alabama Board of Adjustment); David Wilson Bell, Sr. v. Tina Riley, et al., United States District Court for the Middle District of Alabama, Eastern Division, No. CV-00-D-731-E, slip op. at 4-5 (M.D. Ala. February 21, 2001) (adopted by district judge March 20, 2001) (dismissing the plaintiff's claims without prejudice for his failure to exhaust his administrative remedies with the State of Alabama Board of Adjustment); Mitchell Lee Hicks v. Jack Day, et al., Circuit Court of Clarke County, Alabama, No. CV-00-280M, slip op. 1-3 (March 21, 2001) (dismissed the plaintiff's claims without prejudice for his failure to exhaust his administrative remedies with the State of Alabama Board of Adjustment); But see, Garner v. Weeks, No. 00-14582 (11th Cir. April 10, 2001).

197 F.3d (11th Cir. 1999), reinstated in relevant part, Harris v. Garner, 216 F.3d 970 (11th Cir. 2000) (en banc). In the present action, Plaintiff does not allege that he has suffered any physical injury as a result of the allegations described in his Complaint. See Plaintiff's Compl. As a result, the case is due to be dismissed pursuant to 42 U.S.C § 1997e(e).

**C. Alternatively, Defendants are entitled to qualified immunity because nothing in their conduct crossed a “bright line” contour of clearly established constitutional law.**

Defendants were acting within their discretionary authority as Sheriff and Jail officials of Lee County during all times relevant to Plaintiff's Complaint because all their actions were taken in the furtherance of their job duties. See, e.g. Holloman ex rel. Holloman v. Harland, 370 F.3d 1252 (11th Cir. 2004). Once a defendant has asserted the defense of qualified immunity and shown that he was acting within his discretionary authority, the threshold inquiry a court must undertake is whether the plaintiff's allegations, if true, establish a constitutional violation. Saucier v. Katz, 533 U.S. 194, 201 (2001). This initial inquiry is whether “[t]aken in the light most favorable to the party asserting the injury, do the facts alleged show the officer's conduct violated a constitutional right?” Id. (citing Siegert v. Gilley, 500 U.S. 226, 232 (1991)). The second inquiry is, if a constitutional violation is stated, were these rights “clearly established” to the degree that these Defendants had “fair warning” that their conduct violated the plaintiff's constitutional rights? Willingham v. Loughnan, 321 F.3d 1299, 1301 (11th Cir. 2003).

In making an assessment of whether the particular conduct of these Defendants was clearly established as being violative of constitutional dictates, the reviewing court must examine the state of law at the time the alleged deprivation occurred. See Rodgers v. Horsley, 39 F.3d 308, 311 (11th Cir. 1994). A constitutional right is clearly established only if its contours are “sufficiently clear that a reasonable official would understand that what he is doing violates that right.” Anderson v. Creighton, 483 U.S. 635, 640 (1987); Lancaster, 116 F.3d at 1424. “In this circuit, the law can be ‘clearly established’ for qualified immunity purposes only by decisions of the U.S. Supreme

Court, Eleventh Circuit Court of Appeals, or the highest court of the state where the case arose.” Jenkins v. Talladega Bd. of Educ., 115 F.3d 821, 827 (11th Cir. 1997) (en banc) (citations omitted).

Assuming, *arguendo*, that the Plaintiff could demonstrate a constitutional violation, he must still show that clearly established law provided the Defendants with fair warning that their conduct was unlawful. He may do so by either (1) pointing to a case with materially similar facts holding that the conduct engaged in was illegal; or (2) demonstrating that a pertinent federal statute or federal constitutional provision are specific enough to demonstrate conduct was illegal, even in the total absence of case law. Storck v. City of Coral Springs, 354 F.3d 1307, 1317 (11th Cir. 2003) (citations omitted). The Eleventh Circuit has identified the latter method as an “obvious clarity” case. Vinyard v. Wilson, 311 F.3d 1340, 1350 (11th Cir. 2002) (footnote omitted). In order to show that the conduct of the Defendant was unconstitutional with “obvious clarity,” “the unlawfulness must have been apparent.” Willingham, 321 F.3d at 1301. “Unless a government agent’s act is so obviously wrong, in the light of pre-existing law, that only a plainly incompetent officer or one who was knowingly violating the law would have done such a thing, the government actor has immunity from suit.” Storck, 354 F.3d at 1318 (quoting 28 F.3d at 1149).

In order to establish a conditions of confinement claim Plaintiff “must prove three elements: (1) a condition of confinement that inflicted unnecessary pain or suffering [constituting cruel and unusual punishment], (2) the defendant[s]’ ‘deliberate indifference’ to that condition, and (3) causation. Rhodes v. Chapman, 452 U.S. 337, 347, 101 S. Ct. 2392, 2399, 69 L. Ed. 2d 59 (1981) (first element); Wilson v. Seiter, [502] U.S. [294, 303], 111 S. Ct. 2321, 2327, 115 L. Ed. 2d 271 (1991) (second element); Williams v. Bennett, 689 F.2d 1389-90 (11th Cir. 1982) (third element). Whether a particular condition of confinement constitutes cruel and unusual punishment is an objective inquiry; whether jail officials were deliberately indifferent to that condition is a subjective inquiry. Wilson v. Seiter, 502 U.S. at 290. In the

instant case, the Plaintiff cannot establish either the objective or subjective components of his conditions of confinement claims.

### 1. Objective Component

With regard to the objective component, the Eleventh Circuit has held that “*extreme* deprivations are required to make out a conditions-of-confinement claim” under the Eighth Amendment.<sup>6</sup> Chandler v. Crosby, 379 F.3d 1278, 1298 (11th Cir. 2004) (emphasis in original). “[A] constitutional violation occurs only where the deprivation alleged is, objectively, ‘sufficiently serious.’” Farmer v. Brennan, 511 U.S. 825, 834 (1994). “[T]he Constitution does not mandate comfortable prisons.” Chandler, 379 F.3d. at 1289. In the instant case, the Plaintiff cannot present evidence of any *extreme* deprivation that could be objectively considered “cruel and unusual.”

Plaintiff complains of two instances of roaches in his food, of being incarcerated in a cell with black mold on the walls, of a broken speaker, of having to sleep on the floor due to overcrowded conditions and of sleeping near a toilet leaking water. (Plaintiff’s Compl. p. 2-3.) Plaintiff’s claim that there are more inmates than there are beds does not violate his constitutional rights. The evidence is clear that, in the event that the number of inmates exceeds the number of beds in the Lee County Detention Center, the inmates will be provided with either a portable bed or a mattress and blankets. Inmates are never required to sleep on the floor without a mattress. The Defendants have shown that the Plaintiff had access to cleaning materials on a twice daily basis to clean his cell, and that the jails and specifically the shower areas are cleaned daily as well as being cleaned regularly with a steam sanitizer. Further, the Lee County Detention Center officials follow sound policies and procedures to prevent insect infestation. The kitchen follows

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<sup>6</sup> “Claims involving the mistreatment of . . . pretrial detainees in custody are governed by the Fourteenth Amendment’s Due Process Clause instead of the Eighth Amendment’s Cruel and Unusual Punishment Clause, which applies to such claims by convicted prisoners. But it makes no difference whether [the plaintiff] was a pretrial detainee or a convicted prisoner because ‘the applicable standard is the same, so decisional law involving prison inmates applies equally to cases involving pretrial detainees.’” Bozeman v. Orum, 422 F.3d 1265, 1271 (11th Cir. 2005) (internal citations omitted).

strict sanitary rules and the Detention Center is professionally sprayed with insecticide every month. In addition, the Plaintiff had the opportunity to request that the Detention Center staff use additional insecticide or powders if he thought they were necessary. However, the Plaintiff never made any request to the Defendants. Further, the evidence is clear that two maintenance personnel are assigned fulltime to the jail and that all requests to fix broken speaker or toilets are attended to immediately.

These conditions alleged by Plaintiff do not rise to the level of a constitutional violation. See Hamm v. DeKalb County, 774 F.2d 1567, 1575 (11th Cir. 1985) (holding that an inmate's temporarily sleeping on a mattress on a floor or table is not necessarily state a constitutional violation); Datz v. Hutson, 806 F. Supp. 982, 988-89 (N.D. Ga. 1992) (holding that even assuming that the plaintiff had to sleep on a mattress on the floor, such treatment is not cruel or unusual as to form a constitutional violation); Taylor v. Naphcare, Inc., 2006 WL 2038428, \*6 (M.D. Ala. 2006) (stating that the plaintiff's "claims that black mold, vermin, and mice were present in the dining hall, dishroom, and dormitories . . . , that mattresses and pillows were worn-out and seldom washed, that insect and vermin waste were found in the food . . . and that the shower facilities were not clean" did not rise to the level of a constitutional violation); Oliver v. Powell, 250 F. Supp. 2d 593, 604 (E.D. Va. 2002) (holding that being "placed in a segregation cell with roaches, leaky toilets, peeling paint, and writing on the wall" did not rise to the level of a constitutional violation); Geder v. Godinez, 875 F. Supp. 1334, 1341 (N.D. Ill. 1995) (holding that the plaintiff's allegations of the "presence of defective pipes, sinks, and toilets, improperly-cleaned showers, a broken intercom system, stained mattresses, accumulated dust and dirt, and infestation by roaches and rats" did not rise to the level of a constitutional violation). Further, a short duration of the alleged conditions cannot rise to the level of a constitutional violation. See Dixon v. Toole, 2006 WL 1038433, \*5, n. 8 (S.D. Ga. 2006) ("[S]hort periods of incarceration in unsanitary conditions are generally insufficient to evidence an Eighth Amendment violation.").

Clearly, the Plaintiff's conditions of confinement are not extreme as would form a constitutional violation. Therefore, even if the Plaintiff's allegations were taken as true without consideration to the Defendants' evidence, his allegations do not rise to the level of a constitutional violation.

## 2. Subjective Component

Even if the Plaintiff's conditions of confinement were objectively "cruel and unusual," there must still be evidence of subjective deliberate indifference on the part of each Defendant. "To be deliberately indifferent, a [jail] official must knowingly or recklessly disregard an inmate's basic needs." LaMarca v. Turner, 995 F.2d 1526, 1535 (11th Cir. 1993). "[A] plaintiff must prove that the official possessed knowledge both of the infirm condition and of the means to cure that condition, 'so that a conscious, culpable refusal to prevent the harm can be inferred from the defendant's failure to prevent it.'" Id. (quoting Duckworth v. Franzen, 780 F.2d 645, 653 (7th Cir. 1985), cert. denied, 479 U.S. 816 (1986)). There must be evidence that the official "knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." Farmer v. Brennan, 511 U.S. 825, 837 (1994). The Court equates the level of culpable intent required to the standard employed in the context of *criminal* recklessness prosecutions. Id. at 837-839. No liability can be attributed to "an official's failure to alleviate a significant risk which he should have perceived but did not." Cottrell v. Caldwell, 85 F.3d 1480, 1491 (11th Cir. 1996). Where jail officials attempt to remedy constitutional short-comings but fail to do so, the official cannot be found to have been "deliberately indifferent" unless the official knew of but disregarded appropriate effective alternatives. LaMarca, 995 F.2d at 1536. Furthermore, the United States Supreme Court has held that a significant injury is required in order to sustain a conditions of confinement claim. Porter v. Nussle, 534 U.S. 516, 528 (U.S. 2002).

Plaintiff cannot show that Defendants have been deliberately indifferent with regard to the conditions of confinement at the Lee County Detention Center. Plaintiff has failed to allege or offer any evidence sufficient to sustain a claim that any actions of the Defendants constituted cruel and unusual punishment. See Geder v. Godinez, 875 F. Supp. 1334, 1341-42 (N.D. Ill. 1995) (granting summary judgment to defendants where the plaintiff failed to show deliberate indifference to “defective pipes, sinks, and toilets, improperly-cleaned showers, a broken intercom system, stained mattresses, accumulated dust and dirt, and infestation by roaches and rats”). In this case, none of the conditions of which Plaintiff complains constitutes an excessive risk to his health or safety. Plaintiff has not shown how he has been injured as a result of any of his allegations. Furthermore, the Plaintiff has not presented sufficient evidence to show that any impairment to his physical or mental condition actually resulted from the aforementioned environment. In the instant case, even if there were an excessive risk to his health or safety, the Plaintiff has not sufficiently alleged that any of the Defendants knew of or disregarded that risk. There are no request slips in the Plaintiff’s file regarding his allegations of the conditions of his confinement. The Plaintiff has failed to sufficiently allege how each Defendant was deliberately indifferent to any alleged conditions.

Based on the foregoing, it is clear that the Defendants did not violate Plaintiff’s constitutional rights. Further, Plaintiff cannot show that clearly established law provided the Defendants with fair warning that their conduct was unlawful. Therefore, the Defendants are entitled to qualified immunity. Because the Plaintiff cannot meet the objective or subjective tests as set forth in Farmer, *supra*, his conditions of confinement claims are due to be dismissed.

**D. Plaintiff has failed to allege sufficient personal involvement on each claim.**

The language of 42 U.S.C. § 1983 requires proof of an affirmative causal connection between the actions taken by the defendants and the constitutional deprivation. Swint v. City of Wadley, 51 F. 3d 988 (11th Cir. 1995). The requisite causal connection may be shown by the

personal participation of the defendant, a policy established by the defendant resulting in indifference to constitutional rights or a breach of a duty imposed state of local law which results in constitutional injury. Zatler v. Wainwright, 802 F. 2d 397 (11th Cir. 1986).

The Plaintiff has failed to allege that Defendants were in any way personally involved in any alleged violation of Plaintiff's constitutional rights. Plaintiff has offered no allegation demonstrating that these named Defendants were in any way involved in the actions he claims were constitutionally infirm. There are absolutely no facts to show that Defendants personally participated in his claims, nor does the Plaintiff allege specifically how these Defendants violated his constitutional rights. As such, all Plaintiff's claims are due to be dismissed.

**E. To the extent that any claims against the Defendants are based on the theory of *respondeat superior*, such claims must fail.**

To the extent that Plaintiff's claims are an attempt to hold the Defendants liable under a *respondeat superior* theory, his claim must similarly fail.

[Supervisory] liability under § 1983 must be based on something more than a theory of *respondeat superior*. Supervisory liability occurs either when the supervisor personally participates in the alleged constitutional violation or when there is a causal connection between actions and the supervising official and the alleged constitutional violation. The causal connection can be established when a history of widespread abuse puts the responsible supervisor on notice of the need to correct the alleged depravation, and he fails to do so.

Dolihite v. Maughon, 74 F.3d 1027, 1052 (11th Cir. 1996).

**F. This Court lacks subject matter jurisdiction over the Plaintiff's claims for injunctive relief.**

Subject matter jurisdiction is a "threshold issue" which a Plaintiff must establish to the Court's satisfaction before he may prevail on any of his claims. See generally, Rosado v. Wyman, 397 U.S. 397, 402 (1970); Ellis v. General Motors Acceptance Corp., 160 F.3d 703, 706 (11th Cir. 1998). In the instant case, this Court lacks subject matter jurisdiction over the Plaintiff's claims for injunctive relief because he has been released from the Lee County Detention Center. Subject matter jurisdiction is absent because the Plaintiff's claims are moot

and because he lacks standing to pursue his claims.

**1. Plaintiff's claims for injunctive relief are moot.**

“[A] moot suit ‘cannot present an Article III case or controversy and the federal courts lack subject matter jurisdiction to entertain it.’” Nat’l Adver. Co. v. City of Miami, 402 F.3d 1329, 1332 (11th Cir. 2005). Because Plaintiff has been released from the Lee County Jail, his claims for injunctive relief are moot. Zatler, at 399 (“In view of [the plaintiff’s] subsequent release [from the correctional facility where claims arose], we find that his claims for declaratory and injunctive relief are now moot.”); see also Wahl v. McIver, 773 F.2d 1169, 1173 (11th Cir. 1985) (“Absent class certification, an inmate’s claim for injunctive and declaratory relief in a section 1983 action fails to present a case or controversy once the inmate has been transferred. Past exposure to illegal conduct does not constitute a present case or controversy involving injunctive relief if unaccompanied by any continuing, present adverse effects.” (citations omitted)); Cotterall v. Paul, 755 F.2d 777, 780 (11th Cir. 1985) (holding that prisoner’s claim for injunctive relief was moot and properly dismissed, where prisoner had been transferred from county jail in which unconstitutional conditions allegedly existed); McKinnon v. Talladega County, 745 F.2d 1360, 1363 (11th Cir. 1984) (“The general rule is that a prisoner’s transfer or release from a jail moots his individual claim for declaratory and injunctive relief.” (citation omitted)). Accordingly, the Plaintiff’s request for injunctive relief is moot.

**2. The Plaintiff lacks standing to pursue his claims.**

A plaintiff seeking the jurisdiction of the federal courts must show a personal stake in the outcome. Baker v. Carr, 369 U.S. 186, 204 (1962). The plaintiff must have sustained, or is about to sustain, some direct injury. Golden v. Zwickler, 394 U.S. 103, 109-10 (1969). Of direct relevance to the present case, “[p]ast exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects.” O’Shea v. Littleton, 414 U.S. 488, 495-96 (1974).

In City of Los Angeles v. Lyons, the plaintiff alleged that he had been subjected to a chokehold by arresting officers in violation of his federally protected rights. 461 U.S. 95, 97 (1983). The plaintiff sought an injunction barring the future use of police chokeholds. Id. 461 U.S. at 98. After the Ninth Circuit affirmed the district court's grant of a preliminary injunction, the United States Supreme Court reversed, holding that the plaintiff lacked standing. Id. 461 U.S. at 99-100. The Court stated that the plaintiff's standing rested solely on pure speculation that he *might* be stopped by the police, *might* be arrested, and *might* again create a disturbance in the jail and *might* be subjected to another chokehold. Id. 461 U.S. at 108. The court noted that five months elapsed between the choking incident and the filing of the complaint and the plaintiff was not subjected to another chokehold. Id.

Here, any injunctive relief is equally speculative. Because he is no longer incarcerated in the Lee County Detention Center, the Plaintiff's claim is, in essence, that he *might* be released from the facility at which he is currently incarcerated, *might* be stopped by police, *might* be arrested by an officer with authority to incarcerate someone in the Lee County Detention Center, that he *might* be booked into the Lee County Detention Center, that he *might* be subjected to the alleged actions and/or conditions made the basis of his Complaint. Such speculation into future conduct does not grant the Plaintiff standing. Lyons, 461 U.S. at 108.

Accordingly, the Plaintiff's request for injunctive relief are due to be dismissed for lack of standing.

#### **G. Summary Judgment Standard**

On a motion for summary judgment, the court should view the evidence in the light most favorable to the nonmovant. Greason v. Kemp, 891 F.2d 829, 831 (11th Cir. 1990). However, a plaintiff "must do more than show that there is some metaphysical doubt as to the material facts." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). Only reasonable inferences with a foundation in the record inure to the nonmovant's benefit. See

Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133 (2000). “[T]he court should give credence to the evidence favoring the nonmovant as well as that ‘evidence supporting the moving party that is uncontradicted or unimpeached, at least to the extent that that evidence comes from disinterested witnesses.’” Reeves, 530 U.S. at 151, quoting 9A C. Wright & A. Miller, Federal Practice and Procedure § 2529, p. 299.<sup>7</sup> “A reviewing court need not ‘swallow plaintiff’s invective hook, line and sinker; bald assertions, unsupportable conclusions, periphrastic circumlocutions, and the like need not be credited.’” Marsh v. Butler County, 268 F.3d 1014, 1036 n.16 (11th Cir. 2001) (en banc) quoting Massachusetts School of Law v. American Bar, 142 F.3d 26, 40 (1st Cir. 1998).

### CONCLUSION

Defendants deny each and every allegation made by Plaintiff in the Complaint. Defendants have not acted in a manner so as to deprive Plaintiff of any right to which he is entitled.

### MOTION FOR SUMMARY JUDGMENT

Defendants respectfully request that this Honorable Court treat their Special Report as a Motion for Summary Judgment, and grant unto them the same.

Respectfully submitted this 30th day of May, 2007.

**s/Ashley Hawkins Freeman**  
ASHLEY HAWKINS FREEMAN Bar No. FRE044  
Attorney for Defendants  
WEBB & ELEY, P.C.  
7475 Halcyon Pointe Drive (36117)  
Post Office Box 240909  
Montgomery, Alabama 36124  
Telephone: (334) 262-1850  
Fax: (334) 262-1889  
E-mail: [afreeman@webbeley.com](mailto:afreeman@webbeley.com)

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<sup>7</sup> Although Reeves was a review of a motion for judgment as a matter of law after the underlying matter had been tried, the Supreme Court, in determining the proper standard of review relied heavily on the standard for summary judgment stating, “the standard for granting summary judgment ‘mirrors’ the standard for judgment as a matter of law, such that ‘the inquiry under each is the same.’” Reeves, 530 U.S. at 150, citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250-251 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).

**CERTIFICATE OF SERVICE**

I hereby certify that on this the **30th** day of **May, 2007**, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Wesley Keith Holmes, Jr.  
Lee County Detention Center  
P.O. Box 2407  
Opelika, AL 36803

**s/Ashley Hawkins Freeman**  
OF COUNSEL

**Exhibit A**  
**Inmate File of Wesley Keith Holmes**

ALABAMA DEPARTMENT OF CORRECTIONS  
INMATE SUMMARY AS OF 03/20/2007

INST: 241  
CODE: CIADM

R716-3

\*\*\*\*\*  
RACE: W SEX: M

IS: 00231400S INMATE: HOLMES, WESLEY KEITH

DOYM: 00 JAIL CR: 000Y 00M 00D

NST: 241 - LEE

IDB: 00000007 SSN: [REDACTED]

ADM DT: 10/31/2006 DEAD TIME: 000Y 00M 00D

STAT: NEW COMIT FROM CRT W/O REV OF

ADM TYP: NEW COMIT FROM CRT W/O REV OF

CURRENT CUST: OTN-5 CURRENT CUST DT: 10/31/2006 PAROLE REVIEW DATE: - NONE -

SECURITY LEVEL: NO CLASSIFICATION RECORD FOUND

CURRENT CLASS DATE: 10/31/2006

SERVING UNDER ACT446 LAW IN CLASS II

INMATE IS EARNING : EARN\$ 40 DAYS FOR EACH 30 SERVED

COUNTY LEE SENT DT CASE NO CRIME  
10/31/06 406011.00 SEXUAL ABUSE I

ATTORNEY FEES : \$000500

COURT COSTS : \$0000705

HABITUAL OFFENDER : N

FINES : \$0000000

JL-CR TERM  
0155D 010Y 00M 00D

RESTITUTION : \$0000

TOTAL TERM  
010Y 00M 00D

MIN REL DT  
12/07/2010

GOOD TIME BAL  
000Y 00M 00D

GOOD TIME REV  
000Y 00M 00D

LONG DAT  
05/25/20

INMATE LITERAL: CCH/CC05-11.01 - 12 MO MISD  
\*\*\*\*\*

DETAINEE WARRANTS SUMMARY

>DET WRT 12/14/2006 TYPE NOTIFICATION ONLY  
LITERAL: 12 MOS CC W/ STATE  
OFFENSE: 203M - THEFT OF PROPERTY III  
\*\*\*\*\*

LEE CO SU  
SER # : 01

CASE #: CC06

ESCAPEE-PAROLE SUMMARY

INMATE CURRENTLY HAS NO PAROLE RECORDS

INMATE CURRENTLY HAS NO PROBATION /54 RECORDS

INMATE HAS NO ESCAPES FROM ADGC SINCE DSCIS RECORDING B  
\*\*\*\*\*

DISCIPLINARY/CITATION SUMMARY

INMATE CURRENTLY HAS NO DISCIPLINARY/CITATION RECORDS

ACR359

ALABAMA JUDICIAL DATA CENTER  
LEE COUNTY  
TRANSCRIPT OF RECORD  
CONVICTION REPORT4300-CC-2006-000011.01  
HON. JACOB A.

CIRCUIT COURT OF LEE COUNTY

COURT ORI : 057015 J

STATE OF ALABAMA VS.  
HOLMES WESLEY KEITH  
290 LEE RD 876  
SMITHS ALALIAS :  
ALIAS :DC NO : GJ 2005 000937.00  
GJ : 163  
SSN :   
SID :   
AIS :   
DOB :   
RACE : (X) W ( ) B ( ) O SEX : M HT : 6 FT - 00 IN WT : 135 HAIR : BRO EYE : BLU  
COMPLEXION : AGE : 19 FEATURES :

DATE OFFENSE 1/1/1900 ARREST DATE 9/6/2005 ARREST ORI 0430000

CHARGES @ CONV CITES CT CL COURT ACTION CA DATE  
THEFT OF PROP 1ST 13A-008-003 001 B Guilty Plea 10/31/2006

JUDGE : HON. JACOB A.

PROSECUTOR : ABBETT NICK

PROBATION APPLIED

GRANTED DATE

REARRESTED DATE

REVOKED DATE

( ) Y ( X ) N

( ) Y ( X ) N

( ) Y ( X ) N

( ) Y ( X ) N

15-18-8, CODE OF ALA 1975

( ) Y ( X ) N

IMPOSED

SUSPENDED

TOTAL

JAIL CREDIT

CONFINEMENT  
PROBATION00 12 000  
00 00 00000 00 000  
00 00 00000 12 000  
00 00 00000 00 155  
00 00 000

DATE SENTENCED : 10/31/2006

SENTENCE BEGINS : 12/14/2006

PROVISIONS

COST/RESTITUTION

ORDERED

DUE

Jail  
ConcurrentCOST  
COST\$32.00  
\$601.00\$32.00  
\$601.00

TOTAL :

\$633.00

\$633.00

APPEAL DATE

SUSPENDED

AFFIRMED

REARREST

( ) Y ( X ) N

( ) Y ( X ) N

( ) Y ( X ) N

( ) Y ( X ) N

AOC REMARKS :

THIS IS TO CERTIFY THAT THE ABOVE  
INFORMATION WAS EXTRACT FROM OFFICIAL  
COURT RECORDS AND IS TRUE AND CORRECT.

DOC REMARKS :

/S/ CORINNE T. HURST

CORINNE T. HURST

12/21/2006

12/26/07 per Lee she will mail another  
one to Doc today. DB

ACR359

ALABAMA JUDICIAL DATA CENTER  
LEE COUNTY  
TRANSCRIPT OF RECORD  
CONVICTION REPORT

CC 2006 000011.00 01  
HON. JACOB A. WALKER III

COURT ORI: 043015 J

DC NO: GJ 2005 000937.00

G J: 64

SSN: [REDACTED]

SID: 000000000

AIS: 000000

CIRCUIT COURT OF LEE COUNTY

STATE OF ALABAMA  
HOLMES WESLEY KEITH  
290 LEE RD 876  
SMITHS AL 00000

VS.

ALIAS:  
ALIAS:

DOB: [REDACTED] SEX: M HT: 6 00 WT: 135 HAIR: BRO EYE: BLU  
RACE: (X)W ( )B ( )O COMPLEXION: AGE: FEATURES:

DATE OFFENSE: 09/03/2005 ARREST DATE: 09/06/2005 ARREST ORI: 0430000

CHARGES @ CONV	CITES	CT CL COURT ACTION	CA DATE
SEXUAL ABUSE 1ST	13A-006-066	01 C GUILTY PLEA	10/31/2006
		00	00/00/0000
		00	00/00/0000

JUDGE: HON. JACOB A. WALKER III PROSECUTOR: ABBETT NICK

PROBATION APPLIED	GRANTED	DATE	REARRESTED DATE	REVOKED	DATE
( )Y( )N	( )Y( )N		( )Y( )N	( )Y( )N	

15-18-8, CODE OF ALA 1975	IMPOSED	SUSPENDED	TOTAL	JAIL CREDIT
( )Y (X)N CONFINEMENT:	10 00 000	00 00 000	10 00 000	00 00 155
PROBATION :	00 00 000		00 00 000	

DATE SENTENCED: 10/31/2006 SENTENCE BEGINS: 10/31/2006

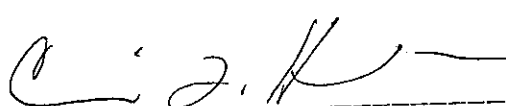
PROVISIONS	COSTS/RESTITUTION	DUE	ORDERED
VDOB=08181989	RESTITUTION	\$0.00	\$0.00
PENITENTIARY	ATTORNEY FEE	\$500.00	\$500.00
CONCURR SENT w/c 0611.01	CRIME VICTIMS	\$100.00	\$100.00
	COST	\$786.00	\$786.00
	FINE	\$0.00	\$0.00
	MUNICIPAL FEES	\$0.00	\$0.00
	DRUG FEES	\$0.00	\$0.00
	ADDTL DEFENDANT	\$0.00	\$0.00
	DA FEES	\$0.00	\$0.00
	COLLECTION ACCT	\$0.00	\$0.00
	JAIL FEES	\$0.00	\$0.00
	TOTAL	\$1386.00	\$1386.00

APPEAL DATE	SUSPENDED	AFFIRMED	REARREST
( )Y( )N	( )Y( )N	( )Y( )N	( )Y( )N

REMARKS:

THIS IS TO CERTIFY THAT THE  
ABOVE INFORMATION WAS EXTRACTED  
FROM OFFICIAL COURT RECORDS  
AND IS TRUE AND CORRECT.

AMENDED TRANSCRIPT AMENDING VICTIM AGE (8/18/89) AND OFFENSE  
DATE OF 9/3/05

  
CORINNE T. HURST

03/20/2007

OPERATOR: KAH  
PREPARED: 03/20/2007



Front

Lee County Detention Center  
**INMATE REQUEST SLIP**

F-4  
**LOCATION**

Name Wesley K. Holmes Date 9-10-05  
☐ Telephone Call ☐ Doctor ☐ Dentist ☐ Time Sheet  
☐ Special Visit ☐ Personal Problem ☒ Other

Briefly Outline Your Request. Give To Jailer

I like to take GED classes to help further  
my education

Do Not Write Below This Line - For Reply Only

Placed in GED class 10/17/05

Wiltzie

Approved \_\_\_\_\_ Denied \_\_\_\_\_ Collect Call \_\_\_\_\_

All Request Will Be Routed Through The Sergeant Over The Jail, Then Forwarded To Those The Request is Directed.

☐ Lieutenant

☐ Chief Deputy

☐ Sheriff

Date \_\_\_\_\_ Time Received \_\_\_\_\_

CORRECTION OFFICER \_\_\_\_\_

FORM: LCS-038 (6/99)

Lee County Detention Center  
**INMATE REQUEST SLIP**

Name Wesley Holmes Date 1-14-07 <sup>F-1</sup>  
**LOCATION**  
☒ Telephone Call ☒ Doctor ☐ Dentist ☐ Time Sheet  
☒ Special Visit ☒ Personal Problem ☒ Other

Briefly Outline Your Request. Give To Jailer

GET Tabs - I was writing you to check my  
file to make sure my paper work has been  
sent to Kilbee. Thanks

Do Not Write Below This Line - For Reply Only

YOU HAVE TWO TRANSCRIPTS W YOUR FILE,  
SO D.O.C. SHOULD HAVE COPIES OF  
THESE.

Jalilz  
1-19-07

Approved \_\_\_\_\_ Denied \_\_\_\_\_ Collect Call \_\_\_\_\_

All Request Will Be Routed Through The Sergeant Over The Jail, Then Forwarded To Those The Request is Directed.

☐ Lieutenant

☐ Chief Deputy

☐ Sheriff

Date \_\_\_\_\_ Time Received \_\_\_\_\_

CORRECTION OFFICER \_\_\_\_\_

Lee County Detention Center  
**INMATE REQUEST SLIP**F-2  
**LOCATION**Name Wesley Holmes Date 1-10-07  
☐ Telephone Call ☐ Doctor ☐ Dentist ☐ Time Sheet  
☐ Special Visit ☐ Personal Problem ☐ OtherBriefly Outline Your Request. Give To JailerI would like to go to the Law LibraryDo Not Write Below This Line - For Reply OnlyApproved \* Denied \_\_\_\_\_ Collect Call \_\_\_\_\_

All Request Will Be Routed Through The Sergeant Over The Jail, Then Forwarded To Those The Request is Directed.

☐ Lieutenant ☐ Chief Deputy ☐ SheriffDate 02/12/07 Time Received 24:28CORRECTION OFFICER SGT Throat

Lee County Detention Center  
**INMATE REQUEST SLIP**

Name Wesley Holmes Date Dec 28 2000 <sup>F-1</sup>  
**LOCATION**  
☐ Telephone Call ☐ Doctor ☐ Dentist ☐ Time Sheet  
☐ Special Visit ☐ Personal Problem ☐ Other

Briefly Outline Your Request. Give To Jailer

Could I go to the Law Library

Do Not Write Below This Line - For Reply Only

TAKEN TO LIBRARY ON 1/7/2007  
AT 2000 HRS

Approved ☒ Denied ☐ Collect Call ☐

All Request Will Be Routed Through The Sergeant Over The Jail, Then Forwarded To Those The Request Is Directed.

☐ Lieutenant ☐ Chief Deputy ☐ Sheriff  
 Date 1/7/2007 Time Received \_\_\_\_\_

CORRECTION OFFICER AARON 43031

Lee County Detention Center  
**INMATE REQUEST SLIP**

Name Wesley Holmes Date 11-20-06  
 LOCATION F. J.  
☐ Telephone Call ☐ Doctor ☐ Dentist ☐ Time Sheet  
☐ Special Visit ☐ Personal Problem ☒ Other

Briefly Outline Your Request. Give To Jailer

Sgt. Tabe - I had a \$13.00 dollar money order sent in the mail that I still have yet to receive. I was wondering if you could look ~~at~~ into it for me please.

Thank you  
[Signature]

Do Not Write Below This Line - For Reply Only

CHECKED ACCOUNT - HAVE NOT RECEIVED  
 A \$15.00 money order FOR YOU.

[Signature]  
 11-19-06

Approved \_\_\_\_\_ Denied \_\_\_\_\_ Collect Call \_\_\_\_\_

All Request Will Be Routed Through The Sergeant Over The Jail, Then Forwarded To Those The Request is Directed.

☐ Lieutenant ☐ Chief Deputy ☐ Sheriff

Date \_\_\_\_\_ Time Received \_\_\_\_\_

CORRECTION OFFICER \_\_\_\_\_

03/28/2007

00:20:43

INMATE RELEASE SHEET

PAGE

1

BOOKING NO: 060005031

INMATE NAME: HOLMES WESLEY KEITH

ALIAS:

ALIAS:

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

HOME PHONE: 334-480-8926

DOB: 03/18/1987 AGE: 19

PLCE BIRTH: COLUMBUS

STATE: GA

M. STATUS: SINGLE

RELIGION: CHRISTIAN

GANG ASSOC:

SCARS/TATTOOS:

KNOWN ENEMIES:

REMARKS:

RACE: W

SEX: M

HT: 6'00" HAIR: BRO

WT: 135 EYES: BLU

COMPLEX:

SSN: 2 [REDACTED]

DL ST: DLN:

SID:

LOCID: 30893

## ----- NEXT OF KIN -----

NEXT OF KIN: WESLEY HOLMES

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

REMARKS:

RELATIONSHIP: FATHER

PHONE: 334-480-8926

## ----- EMPLOYER INFO -----

EMPLOYED: N

EMPLOYER NAME:

ADDRESS:

CITY/ST/ZIP: ,

PHONE: 000-000-0000

## ----- MEDICAL -----

HANDICAPPED: N NEEDS: N

GLASSES: N SMOKE: N

MEDICAL NEEDS: N NEEDS:

PHYSICIAN:

PHONE: 000-000-0000

REMARKS:

REMARKS:

REMARKS:

## ----- PROPERTY -----

CASH: \$00.00

DESCRIPTION: NO CURRENCY

ADD. PROPERTY: STREET CLOTHES AND 1 BELT.

ADD. PROPERTY:

ADD. PROPERTY:

BIN NUMBER: 73

VEH IMPOUNDED:

IMPOUND LOT:

REMARKS:

REMARKS:

=====

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE

DATE:

TIME:

BOOK OFFICER:

DATE:

TIME:

AARON 43031

3/28/07

03/28/2007 00:20:43

## INMATE RELEASE SHEET

BOOKING NO: 060005031

INMATE NAME: HOLMES WESLEY KEITH

COURT: CIRCUIT

ATTORNEY ON REC:

JUDGE: WALKER

PHONE: 000-000-0000

REMARKS:

REMARKS:

BOOK DATE: 10/18/2006 BOOK TIME: 11:17 BOOK TYPE: NORMAL

ARREST DATE: 10/18/2006

BOOKING OFFICER: MS. GRIGGS

ARREST DEPT: LCSO

CELL ASSIGNMENT:

ARRST OFFICER: COURT

MEAL CODE: 02 STATE

PROJ. RLS DATE: 00/00/0000

FACILITY: 01 COUNTY JAIL

SEARCH OFFCR: PHILLIPS

CLASSIFICATION:

TYPE SEARCH: DRESSED

WORK RELEASE: N

INTOX RESULTS: SOBER

HOLDS: N

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

NOTES:

NOTES:

NOTES:

RELEASE DATE: 03/28/2007 RELEASE TIME: 00:20 # DAYS SERVED: 162

RELEASE OFFICER: AARON

RELEASE TYPE: TRANSPORT TO KILBY

REMARKS:

REMARKS:

REMARKS:

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL  
INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: 

DATE:

TIME:

BOOK OFFICER: AARON 43D31

DATE: 3/28/07

TIME:

03/28/2007

00:20:43

INMATE CHARGE SHEET

PAGE

3

BOOKING NO: 060005031

INMATE NAME: HOLMES WESLEY KEITH

CHARGE NO: 1 DISPOSITION: SENTENCED

HOLD: N

ALA STATUTE: CC06-011.00

# OF COUNTS: 1

OFFENSE: RAPE 1ST/120 MOS

WARRANT #:

CASE #: CC-06-11

FINE: \$0.00

BOND AMT: 10 YRS

BAIL AMT:

INIT APPEAR: 00/00/0000

SENTENCE DATE: 10/31/2006

RELEASE DTE: 00/00/0000

ARREST DATE: 10/18/2006

ARST AGENCY: LCSO

ARST OFFICR: COURT

COUNTY: LEE

COURT: CIRCUIT

JUDGE: WALKER

DEF ATTORNY:

DIST ATTORNEY:

COMMENTS: 155 DYS JC

COMMENTS: TRANS TO PEN 120 MONTHS CC06-.011.00/ CC06-011.01 12MO TO

COMMENTS: RUN CONCURRENT

STATE OF ALABAMA  
UNIFIED JUDICIAL SYSTEM  
LEE COUNTY FORM CC-30

COMMITTAL TO CUSTODY

CASE NUMBER  
ID YR Case No.  
CC 06 01/00/01

State

PLAINTIFF,

VS.

Wesley Keith Holmes

DEFENDANT.

IN THE

Circuit

COURT OF

LEE COUNTY, ALABAMA

CASE NO.

CC 06 01/00/01

The defendant,

Wesley Keith Holmes

is

hereby committed to the custody of the Sheriff of Lee County, Alabama for:

Sexual Abuse I + TOP III - 120 months Penitentiary -

12 months County Jail - Probation being 12/14/06 to 06/01/07

to run concurrent

Defendant's bond is hereby set at \$

DONE this the 31 day of October, 2006.

for drug jail credit

Sentence placed into it

JUDGE

10/18/2006 11:19:20

LEE COUNTY SHERIFF'S OFFICE  
INMATE BOOKING SHEET

PAGE 1

BOOKING NO: 060005031

INMATE NAME: HOLMES WESLEY KEITH

ALIAS:

ALIAS:

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

HOME PHONE: 334-480-8926

DOB: [REDACTED] AGE: 19

PLCE BIRTH: COLUMBUS

STATE: GA

M. STATUS: SINGLE

RELIGION: CHRISTIAN

GANG ASSOC:

SCARS/TATTOOS:

KNOWN ENEMIES:

REMARKS:

RACE: W SEX: M

HT: 6'00" HAIR: BRO

WT: 135 EYES: BLU

COMPLEX:

SSN: [REDACTED]

DL ST: DLN:

SID:

LOCID: 30893

## ----- NEXT OF KIN -----

NEXT OF KIN: WESLEY HOLMES

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

REMARKS:

RELATIONSHIP: FATHER

PHONE: 334-480-8926

## ----- EMPLOYER INFO -----

EMPLOYED: N

EMPLOYER NAME:

ADDRESS:

CITY/ST/ZIP: ,

PHONE: 000-000-0000

## ----- MEDICAL -----

HANDICAPPED: N NEEDS: N

GLASSES: N SMOKE: N

MEDICAL NEEDS: N NEEDS:

PHYSICIAN:

PHONE: 000-000-0000

REMARKS:

REMARKS:

REMARKS:

## ----- PROPERTY -----

CASH: \$00.00

DESCRIPTION: NO CURRENCY

ADD. PROPERTY: STREET CLOTHES AND 1 BELT.

ADD. PROPERTY:

ADD. PROPERTY:

BIN NUMBER: 73

VEH IMPOUNDED:

IMPOUND LOT:

REMARKS:

REMARKS:

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: [Signature]

DATE: 10/18/06

TIME: \_\_\_\_\_

BOOK OFFICER: [Signature]

DATE: 10/18/06

TIME: \_\_\_\_\_

10/18/2006 11:19:20

LEE COUNTY SHERIFF'S OFFICE  
INMATE BOOKING SHEET

PAGE 2

BOOKING NO: 060005031

INMATE NAME: HOLMES WESLEY KEITH

COURT: CIRCUIT

ATTORNEY ON REC:

JUDGE: WALKER

PHONE: 000-000-0000

REMARKS:

REMARKS:

BOOK DATE: 10/18/2006 BOOK TIME: 11:17 BOOK TYPE: NORMAL

ARREST DATE: 10/18/2006

BOOKING OFFICER: MS. GRIGGS

ARREST DEPT: LCSO

CELL ASSIGNMENT: F1

ARRST OFFICER: COURT

MEAL CODE: 01 LEE COUNTY

PROJ. RLSDATE: 00/00/0000

FACILITY: 01 COUNTY JAIL

SEARCH OFFCR: PHILLIPS

CLASSIFICATION:

TYPE SEARCH: DRESSED

WORK RELEASE: N

INTOX RESULTS: SOBER

HOLDS: N

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

NOTES:

NOTES:

NOTES:

10/18/2006 11:19:20

LEE COUNTY SHERIFF'S OFFICE  
INMATE CHARGE SHEET

PAGE 3

BOOKING NO: 060005031

INMATE NAME: HOLMES WESLEY KEITH

CHARGE NO: 1 DISPOSITION: OPEN

HOLD: N

ALA STATUTE:

# OF COUNTS: 1

OFFENSE: RAPE 1ST

WARRANT #:

CASE #: CC-06-11

BOND AMT: ~~\$50,000~~

FINE: \$0.00

BAIL AMT:

INIT APPEAR: 00/00/0000

SENTENCE DATE: 00/00/0000

RELEASE DTE: 00/00/0000

ARREST DATE: 10/18/2006

ARST AGENCY: LCSO

ARST OFFICER: COURT

COUNTY: LEE

COURT: CIRCUIT

JUDGE: WALKER

DEF ATTORNY:

DIST ATTORNEY:

COMMENTS:

COMMENTS:

COMMENTS:

10/18/2006

11:19:20

LEE COUNTY SHERIFF'S OFFICE

MEDICAL SCREENING FORM

PAGE 2

Booking No: 060005031 Date: 10/18/2006 Time: 11:17 Type: NORMAL  
Agency to Bill: LEE COUNTY Facility: COUNTY JAIL

Inmate Name: HOLMES WESLEY KEITH Race: W Sex: M  
DOB: [REDACTED] Age: 19 SSN: 2 [REDACTED] 3 Height: 6'00" Weight: 135

- Y 13. Have you recently been hospitalized or treated by a doctor? *Slit wrist*
- N 14. Do you currently take any non-prescription medication or medication prescribed by a doctor?
- N 15. Are you allergic to any medication?
- N 16. Do you have any handicaps or conditions that limit activity?
- Y 17. Have you ever attempted suicide or are you thinking about it now?
- Y 18. Do you regularly use alcohol or street drugs? *Marijuana*
- N 19. Do you have any problems when you stop drinking or using drugs?
- N 20. Do you have a special diet prescribed by a physician?
- N 21. Do you have any problems or pain with your teeth?
- N 22. Do you have any other medical problems we should know about?

*1/3 Slit his wrist 3 months ago!*

I HAVE READ THE ABOVE ACCOUNTING OF MY MEDICAL ASSESSMENT AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: *[Signature]*DATE: *10/18/06*

TIME: \_\_\_\_\_

BOOK OFFICER: *Ms. Griggs*DATE: *10/18/06*

TIME: \_\_\_\_\_

10/18/2006

11:19:20

LEE COUNTY SHERIFF'S OFFICE  
MEDICAL SCREENING FORM

PAGE 1

Booking No: 060005031 Date: 10/18/2006 Time: 11:17 Type: NORMAL  
Agency to Bill: LEE COUNTY Facility: COUNTY JAIL

Inmate Name: HOLMES WESLEY KEITH Race: W Sex: M  
DOB: [REDACTED] Age: 19 SSN: [REDACTED] Height: 6'00" Weight: 135

- N 1. Is inmate unconscious?
- N 2. Does inmate have any visible signs of trauma, illness, obvious pain and bleeding, requiring immediate emergency or doctor's care?
- N 3. Is there obvious fever, swollen lymph nodes, jaundice or other evidence of infection that might spread through the facility?
- N 4. Any signs of poor skin condition, vermin, rashes or needle marks?
- N 5. Does inmate appear to be under the influence of drugs or alcohol?
- N 6. Any visible signs of alcohol or drug withdrawal?
- N 7. Does inmate's behavior suggest the risk of suicide or assault?
- N 8. Is inmate carrying any medication?
- N 9. Does the inmate have any physical deformities?
- N 10. Does inmate appear to have psychiatric problems?
11. Do you have or have you ever had or has anyone in your family ever had any of the following?
- |                       |                                  |                              |
|-----------------------|----------------------------------|------------------------------|
| <u>N</u> a. Allergies | <u>N</u> f. Fainting Spells      | <u>N</u> k. Seizures         |
| <u>N</u> b. Arthritis | <u>N</u> g. Hearing Condition    | <u>N</u> l. Tuberculosis     |
| <u>N</u> c. Asthma    | <u>N</u> h. Hepatitis            | <u>N</u> m. Ulcers           |
| <u>N</u> d. Diabetes  | <u>N</u> i. High Blood Pressure  | <u>N</u> n. Venereal Disease |
| <u>N</u> e. Epilepsy  | <u>N</u> j. Psychiatric Disorder | <u>N</u> o. Other (Specify)  |

Other: \_\_\_\_\_

12. For females only:

- N a. Are you pregnant?
- N b. Do you take birth control pills?
- N c. Have you recently delivered?

02/01/2006 14:52:08

LEE COUNTY SHERIFF'S OFFICE  
INMATE RELEASE SHEET

PAGE 1

BOOKING NO: 060000562

INMATE NAME: HOLMES WESLEY KEITH

ALIAS:

ALIAS:

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

HOME PHONE: 334-480-8926

DOB: [REDACTED] AGE: 18

PLCE BIRTH: COLUMBUS

STATE: GA

M. STATUS: SINGLE

RELIGION: CHRISTIAN

GANG ASSOC:

SCARS/TATTOOS:

KNOWN ENEMIES:

REMARKS:

RACE: W SEX: M

HT: 6'00" HAIR: BRO

WT: 135 EYES: BLU

COMPLEX:

SSN: [REDACTED]

DL ST: DLN:

SID:

LOCID: 30893

----- NEXT OF KIN -----  
NEXT OF KIN: WESLEY HOLMES

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

REMARKS:

RELATIONSHIP: FATHER  
PHONE: 334-480-8926

----- EMPLOYER INFO -----

EMPLOYED: N

EMPLOYER NAME:

ADDRESS:

CITY/ST/ZIP: ,

PHONE: 000-000-0000

----- MEDICAL -----

HANDICAPPED: N NEEDS: N

GLASSES: N SMOKE: N

MEDICAL NEEDS: N NEEDS:

PHYSICIAN:

REMARKS:

PHONE: 000-000-0000

REMARKS:

REMARKS:

----- PROPERTY -----

CASH: \$00.00

DESCRIPTION:

ADD. PROPERTY: BELT, WALLET, HEAD BAND, LIP CHAP

ADD. PROPERTY:

ADD. PROPERTY:

BIN NUMBER: 212

VEH IMPOUNDED:

IMPOUND LOT:

REMARKS:

REMARKS:

=====

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL  
INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: [Signature]

DATE: 2-1-06

TIME: \_\_\_\_\_

BOOK OFFICER: \_\_\_\_\_

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

02/01/2006 14:52:08

LEE COUNTY SHERIFF'S OFFICE  
INMATE RELEASE SHEET

PAGE 2

BOOKING NO: 060000562

INMATE NAME: HOLMES WESLEY KEITH

COURT:

ATTORNEY ON REC:

JUDGE:

PHONE: 000-000-0000

REMARKS:

REMARKS:

BOOK DATE: 02/01/2006 BOOK TIME: 10:15 BOOK TYPE: NORMAL

ARREST DATE: 02/01/2006

BOOKING OFFICER: BLACK

ARREST DEPT: LCSO

CELL ASSIGNMENT:

ARRST OFFICER: COURT

MEAL CODE: 01 LEE COUNTY

PROJ. RLS DATE: 00/00/0000

FACILITY: 01 COUNTY JAIL

SEARCH OFFCR:

CLASSIFICATION:

TYPE SEARCH:

WORK RELEASE: N

INTOX RESULTS:

HOLDS: N

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

NOTES:

NOTES:

NOTES:

RELEASE DATE: 02/01/2006 RELEASE TIME: 14:51 # DAYS SERVED: 1

RELEASE OFFICER: BLACK

RELEASE TYPE: BAD BOYS BOND 5-23-06

REMARKS: CLEAR NCIC BLACK

REMARKS:

REMARKS:

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL  
INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: \_\_\_\_\_ DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

BOOK OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

LEE COUNTY SHERIFF'S OFFICE  
INMATE CHARGE SHEET

PAGE 3

02/01/2006 14:52:08

BOOKING NO: 060000562 INMATE NAME: HOLMES WESLEY KEITH

CHARGE NO: 1 DISPOSITION: RELEASED HOLD: N

ALA STATUTE: CC06-011.01

# OF COUNTS: 1

OFFENSE: TOP I

WARRANT #:

CASE #:

BOND AMT: 10,000

FINE: \$0.00

BAIL AMT:

INIT APPEAR: 00/00/0000

SENTENCE DATE: 00/00/0000

RELEASE DTE: 02/01/2006

ARST AGENCY: LCSO

ARREST DATE: 02/01/2006

COUNTY:

ARST OFFICR:

JUDGE: WALKER

COURT:

DIST ATTORNEY:

DEF ATTORNY:

COMMENTS:

COMMENTS:

COMMENTS: INMATE RELEASED BY L43D36

02/01/2006 10:18:09

LEE COUNTY SHERIFF'S OFFICE  
INMATE BOOKING SHEET

PAGE 1

BOOKING NO: 060000562

INMATE NAME: HOLMES WESLEY KEITH

ALIAS:

ALIAS:

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

HOME PHONE: 334-480-8926

DOB: [REDACTED] 7 AGE: 18

PLCE BIRTH: COLUMBUS

STATE: GA

M. STATUS: SINGLE

RELIGION: CHRISTIAN

GANG ASSOC:

SCARS/TATTOOS:

KNOWN ENEMIES:

REMARKS:

RACE: W SEX: M

HT: 6'00" HAIR: BRO

WT: 135 EYES: BLU

COMPLEX:

SSN: 2 [REDACTED]

DL ST: DLN:

SID:

LOCID: 30893

## ----- NEXT OF KIN -----

NEXT OF KIN: WESLEY HOLMES

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

REMARKS:

RELATIONSHIP: FATHER

PHONE: 334-480-8926

## ----- EMPLOYER INFO -----

EMPLOYED: N

EMPLOYER NAME:

ADDRESS:

CITY/ST/ZIP: ,

PHONE: 000-000-0000

## ----- MEDICAL -----

HANDICAPPED: N NEEDS: N

GLASSES: N SMOKE: N

MEDICAL NEEDS: N NEEDS:

PHYSICIAN:

PHONE: 000-000-0000

REMARKS:

REMARKS:

REMARKS:

## ----- PROPERTY -----

CASH: \$00.00

DESCRIPTION:

ADD. PROPERTY: BELT, WALLET, HEAD BAND, LIP CHAP

ADD. PROPERTY:

ADD. PROPERTY:

BIN NUMBER: 212

VEH IMPOUNDED:

IMPOUND LOT:

REMARKS:

REMARKS:

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL  
INFORMATION, MONEY AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: [Signature]

DATE: [Signature] TIME: [Signature]

BOOK OFFICER: [Signature]

DATE: 2-1-06 TIME: 1021

02/01/2006

10:18:09

LEE COUNTY SHERIFF'S OFFICE  
INMATE BOOKING SHEET

PAGE

2

BOOKING NO: 060000562

INMATE NAME: HOLMES WESLEY KEITH

COURT:

ATTORNEY ON REC:

JUDGE:

PHONE: 000-000-0000

REMARKS:

REMARKS:

BOOK DATE: 02/01/2006 BOOK TIME: 10:15 BOOK TYPE: NORMAL

ARREST DATE: 02/01/2006

BOOKING OFFICER: BLACK

ARREST DEPT: LCSO

CELL ASSIGNMENT: HC3

ARRST OFFICER: COURT

MEAL CODE: 01 LEE COUNTY

PROJ. RLSDATE: 00/00/0000

FACILITY: 01 COUNTY JAIL

SEARCH OFFCR:

CLASSIFICATION:

TYPE SEARCH:

WORK RELEASE: N

INTOX RESULTS:

HOLDS: N

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

NOTES:

NOTES:

NOTES:

LEE COUNTY SHERIFF'S OFFICE  
INMATE CHARGE SHEET

PAGE 3

02/01/2006 10:18:09

BOOKING NO: 060000562 INMATE NAME: HOLMES WESLEY KEITH

CHARGE NO: 1 DISPOSITION: OPEN

HOLD: N

ALA STATUTE:

# OF COUNTS: 1

OFFENSE:

WARRANT #:

CASE #:

BOND AMT: 10,000

FINE: \$0.00

BAIL AMT:

INIT APPEAR: 00/00/0000

SENTENCE DATE: 00/00/0000

RELEASE DTE: 00/00/0000

ARREST DATE: 00/00/0000

ARST AGENCY:

ARST OFFICR:

COUNTY:

COURT:

JUDGE: Walker

DEF ATTORNY:

DIST ATTORNEY:

COMMENTS:

COMMENTS:

COMMENTS:

02/01/2006 10:18:09

MEDICAL SCREENING FORM

PAGE 2

Booking No: 060000562 Date: 02/01/2006 Time: 10:15 Type: NORMAL  
Agency to Bill: LEE COUNTY Facility: COUNTY JAIL

Inmate Name: HOLMES WESLEY KEITH Race: W Sex: M  
DOB: [REDACTED] Age: 18 SSN: [REDACTED] Height: 6'00" Weight: 135

- N 13. Have you recently been hospitalized or treated by a doctor?
- N 14. Do you currently take any non-prescription medication or medication prescribed by a doctor?
- N 15. Are you allergic to any medication?
- N 16. Do you have any handicaps or conditions that limit activity?
- N 17. Have you ever attempted suicide or are you thinking about it now?
- N 18. Do you regularly use alcohol or street drugs?
- N 19. Do you have any problems when you stop drinking or using drugs?
- N 20. Do you have a special diet prescribed by a physician?
- N 21. Do you have any problems or pain with your teeth?
- N 22. Do you have any other medical problems we should know about?

No medical problems

I HAVE READ THE ABOVE ACCOUNTING OF MY MEDICAL ASSESSMENT AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE:

[Signature]

DATE:

TIME:

BOOK OFFICER:

[Signature]

DATE:

2-1-06

TIME:

1022

02/01/2006

10:18:09

LEE COUNTY SHERIFF'S OFFICE  
MEDICAL SCREENING FORM

PAGE 1

Booking No: 060000562 Date: 02/01/2006 Time: 10:15 Type: NORMAL  
Agency to Bill: LEE COUNTY Facility: COUNTY JAIL

Inmate Name: HOLMES WESLEY KEITH

Race: W

Sex: M

DOB: [REDACTED] Age: 18 SSN: [REDACTED] Height: 6'00" Weight: 135

N 1. Is inmate unconscious?N 2. Does inmate have any visible signs of trauma, illness, obvious pain and bleeding, requiring immediate emergency or doctor's care?N 3. Is there obvious fever, swollen lymph nodes, jaundice or other evidence of infection that might spread through the facility?N 4. Any signs of poor skin condition, vermin, rashes or needle marks?N 5. Does inmate appear to be under the influence of drugs or alcohol?N 6. Any visible signs of alcohol or drug withdrawal?N 7. Does inmate's behavior suggest the risk of suicide or assault?N 8. Is inmate carrying any medication?N 9. Does the inmate have any physical deformities?N 10. Does inmate appear to have psychiatric problems?

11. Do you have or have you ever had or has anyone in your family ever had any of the following?

N a. Allergies N f. Fainting Spells N k. SeizuresN b. Arthritis N g. Hearing Condition N l. TuberculosisN c. Asthma N h. Hepatitis N m. UlcersN d. Diabetes N i. High Blood Pressure N n. Venereal DiseaseN e. Epilepsy N j. Psychiatric Disorder N o. Other (Specify)

Other: \_\_\_\_\_

12. For females only:

N a. Are you pregnant?N b. Do you take birth control pills?N c. Have you recently delivered?

11/29/2005 16:08:35

LEE COUNTY SHERIFF'S OFFICE  
INMATE RELEASE SHEET

PAGE 1

BOOKING NO: 050004135

INMATE NAME: HOLMES WESLEY KEITH

ALIAS:

ALIAS:

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

HOME PHONE: 334-480-8926

DOB: [REDACTED] AGE: 18

PLCE BIRTH: COLUMBUS

STATE: GA

M. STATUS: SINGLE

RELIGION: CHRISTIAN

GANG ASSOC:

SCARS/TATTOOS:

KNOWN ENEMIES:

REMARKS:

RACE: W SEX: M

HT: 6'00" HAIR: BRO

WT: 135 EYES: BLU

COMPLEX:

SSN: [REDACTED]

DL ST: DLN:

SID:

LOCID: 30893

## ----- NEXT OF KIN -----

NEXT OF KIN: THERESA HOLMES

ADDRESS: 290 LEE RD. 876

CITY/ST/ZIP: SMITHS, AL 36877

REMARKS:

RELATIONSHIP: MOTHER

PHONE: 334-480-8926

## ----- EMPLOYER INFO -----

EMPLOYED: N

EMPLOYER NAME:

ADDRESS:

CITY/ST/ZIP: ,

PHONE: 000-000-0000

## ----- MEDICAL -----

HANDICAPPED: N NEEDS: N

GLASSES: N SMOKE: N

MEDICAL NEEDS: N NEEDS:

PHYSICIAN:

PHONE: 000-000-0000

REMARKS:

REMARKS:

REMARKS:

## ----- PROPERTY -----

CASH: \$00.00

DESCRIPTION: NO MONEY

ADD. PROPERTY: 1 BELT, 1 WALLET W/CONTENTS, 1 CHAPSTICK, 1 PEN, AND 1 WRISTBAND

ADD. PROPERTY:

ADD. PROPERTY:

BIN NUMBER: 254

VEH IMPOUNDED:

IMPOUND LOT:

REMARKS:

REMARKS:

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: [Signature]

DATE: 11-29

TIME: [Signature]

BOOK OFFICER: [Signature]

DATE: 11-29

TIME: 1611

11/29/2005

16:08:35

## INMATE RELEASE SHEET

PAGE 2

BOOKING NO: 050004135

INMATE NAME: HOLMES WESLEY KEITH

COURT:

ATTORNEY ON REC:

JUDGE:

PHONE: 000-000-0000

REMARKS:

REMARKS:

BOOK DATE: 09/06/2005 BOOK TIME: 18:42 BOOK TYPE: NORMAL

ARREST DATE: 09/06/2005

BOOKING OFFICER: WRIGHT

ARREST DEPT: LCSO

CELL ASSIGNMENT:

ARRST OFFICER: TAYLOR

MEAL CODE: 01 LEE COUNTY

PROJ. RLS DATE: 00/00/0000

FACILITY: 01 COUNTY JAIL

SEARCH OFFCR: WRIGHT

CLASSIFICATION:

TYPE SEARCH: PAT

WORK RELEASE: N

INTOX RESULTS: SOBER

HOLDS: N

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

NOTES:

NOTES:

NOTES:

RELEASE DATE: 11/29/2005 RELEASE TIME: 16:08 # DAYS SERVED: 85

RELEASE OFFICER: BLACK

RELEASE TYPE: PROPERTY BOND

REMARKS: FILLED OUT FROM UP FRONT /HAZEL COURT DATE 2-1-06

REMARKS: CLEAR NCIC

REMARKS:

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: \_\_\_\_\_ DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

BOOK OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

LEE COUNTY SHERIFF'S OFFICE  
INMATE CHARGE SHEET

PAGE 3

11/29/2005 16:08:35

BOOKING NO: 050004135 INMATE NAME: HOLMES WESLEY KEITH

CHARGE NO: 1 DISPOSITION: RELEASED HOLD: N

ALA STATUTE: CC05-2445

OFFENSE: RAPE I

CASE #: CC05-2445

BOND AMT: 50,000

BAIL AMT:

INIT APPEAR: 00/00/0000

RELEASE DTE: 00/00/0000

ARREST DATE: 09/06/2005

ARST OFFICR: TAYLOR

COURT:

DEF ATTORNY:

COMMENTS: BOND REDUCED 11-16-05

COMMENTS: PROPERTY BOND FILLED OUT FROM UP FRONT 2-1-06 COURT

COMMENTS:

# OF COUNTS: 1

WARRANT #: 0509-0282A

FINE: \$0.00

SENTENCE DATE: 00/00/0000

ARST AGENCY: LCSO

COUNTY: LEE

JUDGE: NIX

DIST ATTORNEY:

FORM DC-7

## LEE COUNTY DISTRICT COURT

## OUT-OF-COURT DISPOSITION

NAME

Wesley Keith Holmes 11-16-05

CHARGE

Rape 1st

CASE NO.

05-2445

COURT DATE

FTA

## ACTION

Continue to

for

Pay fine of and court costs of

Vol pross on motion of

Vol pross on payment of court costs

Submit money order or cashier's check for \$

payable to

Pay restitution of \$

## FTA

PH

Pay fine of \$ and court costs of \$

HANDICAP

Withdraw writ, vacate FTA

GLA

MEDICAL N-

Withdraw writ, nol pross FTA on payment of court costs

PHYS

Withdraw writ, keep FTA and reset case on docket to

## OTHER

Pay by

Or be in Court

Other orders

Bond reduced to  
50,000.00 -  
no contact

JUDGE

W SEX: M  
6'00" HAIR: BRO  
135 EYES: BLU

255-67-0593  
DLN:

30893

SHIP: MOTHER  
HONE: 334-480-8926

AND 1WRISTBAND

I HAVE READ THE ABOVE ACCOUNTING OF MY PERSONAL INFORMATION, MEDICAL INFORMATION, MONEY, AND OTHER PROPERTY AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: \*Wright DATE: 9-6-05 TIME: \_\_\_\_\_

BOOK OFFICER: Wright 43D49 DATE: 9-6-05 TIME: \_\_\_\_\_

LEE COUNTY SHERIFF'S OFFICE

09/06/2005 19:03:12

## INMATE BOOKING SHEET

PAGE 2

BOOKING NO: 050004135

INMATE NAME: HOLMES WESLEY KEITH

COURT:

ATTORNEY ON REC:

JUDGE:

PHONE: 000-000-0000

REMARKS:

REMARKS:

BOOK DATE: 09/06/2005 BOOK TIME: 18:42 BOOK TYPE: NORMAL

ARREST DATE: 09/06/2005

BOOKING OFFICER: WRIGHT

ARREST DEPT: LCSO

CELL ASSIGNMENT:

ARRST OFFICER: TAYLOR

MEAL CODE: 01 LEE COUNTY

PROJ. RLSDATE: 00/00/0000

FACILITY: 01 COUNTY JAIL

SEARCH OFFCR: WRIGHT

CLASSIFICATION:

TYPE SEARCH: PAT

WORK RELEASE: N

INTOX RESULTS: SOBER

HOLDS: N

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

AGENCY:

REASON:

NOTES:

NOTES:

NOTES:

LEE COUNTY SHERIFF'S OFFICE

09/06/2005 19:03:12

## INMATE CHARGE SHEET

PAGE 3

BOOKING NO: 050004135

INMATE NAME: HOLMES WESLEY KEITH

CHARGE NO: 1 DISPOSITION: OPEN

HOLD: N

ALA STATUTE: 0509-0282A

# OF COUNTS: 1

OFFENSE: RAPE I

WARRANT #: 0509-0282A

CASE #:

FINE: \$0.00

BOND AMT: ~~000000~~ 50,000

BAIL AMT:

INIT APPEAR: 00/00/0000

SENTENCE DATE: 00/00/0000

RELEASE DTE: 00/00/0000

ARREST DATE: 09/06/2005

ARST AGENCY: LCSO

ARST OFFICR: TAYLOR

COUNTY: LEE

COURT:

JUDGE:

DEF ATTORNY:

DIST ATTORNEY:

COMMENTS:

COMMENTS:

COMMENTS:

09/06/2005

19:03:12

LEE COUNTY SHERIFF'S OFFICE  
MEDICAL SCREENING FORM

PAGE 1

Booking No: 050004135 Date: 09/06/2005 Time: 18:42 Type: NORMAL  
Agency to Bill: LEE COUNTY Facility: COUNTY JAIL

Inmate Name: HOLMES WESLEY KEITH Race: W Sex: M  
DOB: [REDACTED] Age: 17 SSN: [REDACTED] Height: 6'00" Weight: 135

- N 1. Is inmate unconscious?
- N 2. Does inmate have any visible signs of trauma, illness, obvious pain and bleeding, requiring immediate emergency or doctor's care?
- N 3. Is there obvious fever, swollen lymph nodes, jaundice or other evidence of infection that might spread through the facility?
- Y 4. Any signs of poor skin condition, vermin, rashes or needle marks?
- N 5. Does inmate appear to be under the influence of drugs or alcohol?
- N 6. Any visible signs of alcohol or drug withdrawal?
- N 7. Does inmate's behavior suggest the risk of suicide or assault?
- N 8. Is inmate carrying any medication?
- N 9. Does the inmate have any physical deformities?
- N 10. Does inmate appear to have psychiatric problems?
11. Do you have or have you ever had or has anyone in your family ever had any of the following?
- |                       |                                  |                              |
|-----------------------|----------------------------------|------------------------------|
| <u>Y</u> a. Allergies | <u>N</u> f. Fainting Spells      | <u>N</u> k. Seizures         |
| <u>Y</u> b. Arthritis | <u>N</u> g. Hearing Condition    | <u>N</u> l. Tuberculosis     |
| <u>Y</u> c. Asthma    | <u>N</u> h. Hepatitis            | <u>N</u> m. Ulcers           |
| <u>Y</u> d. Diabetes  | <u>Y</u> i. High Blood Pressure  | <u>N</u> n. Venereal Disease |
| <u>N</u> e. Epilepsy  | <u>N</u> j. Psychiatric Disorder | <u>N</u> o. Other (Specify)  |

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. For females only:

- \_\_\_\_\_ a. Are you pregnant?
- \_\_\_\_\_ b. Do you take birth control pills?
- \_\_\_\_\_ c. Have you recently delivered?

09/06/2005

19:03:12

LEE COUNTY SHERIFF'S OFFICE  
MEDICAL SCREENING FORM

PAGE 2

Booking No: 050004135 Date: 09/06/2005 Time: 18:42 Type: NORMAL  
Agency to Bill: LEE COUNTY Facility: COUNTY JAIL

Inmate Name: HOLMES WESLEY KEITH

Race: W

Sex: M

DOB: ~~02/12/1987~~

Age: 17

SSN: ~~000-00-0000~~

Height: 6'00"

Weight: 135

- N 13. Have you recently been hospitalized or treated by a doctor?
- N 14. Do you currently take any non-prescription medication or medication prescribed by a doctor?
- N 15. Are you allergic to any medication?
- N 16. Do you have any handicaps or conditions that limit activity?
- N 17. Have you ever attempted suicide or are you thinking about it now?
- Y 18. Do you regularly use alcohol or street drugs?
- N 19. Do you have any problems when you stop drinking or using drugs?
- N 20. Do you have a special diet prescribed by a physician?
- N 21. Do you have any problems or pain with your teeth?
- N 22. Do you have any other medical problems we should know about?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

I HAVE READ THE ABOVE ACCOUNTING OF MY MEDICAL ASSESSMENT AND I FIND IT TO BE TRUE AND ACCURATE.

INMATE: *[Signature]*

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

BOOK OFFICER: Wright 43049DATE: 9-6-05

TIME: \_\_\_\_\_

**Exhibit B**  
**Affidavit of Cary Torbert, Jr.**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

<b>WESLEY KEITH HOLMES, JR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 3:07-cv-00241-WKW</b>
	)	
<b>SHERIFF JAY JONES, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**AFFIDAVIT OF CARY TORBERT, JR.**

<b>STATE OF ALABAMA</b>	)	
	)	
<b>COUNTY OF LEE</b>	)	

**BEFORE ME**, the undersigned authority and Notary Public in and for said County and State at large, personally appeared Cary Torbert, Jr., who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Cary Torbert, Jr. I am over the age of nineteen and competent to execute this affidavit.
2. I serve as Chief Deputy of Corrections of the Lee County Detention Center and have obtained the rank of Major. I have worked with the Lee County Sheriff's Office for over 34 years.
3. I am familiar with the Plaintiff, Wesley Keith Homes, due to his incarceration in the Lee County Detention Center.
4. I state affirmatively that I neither acted, nor caused anyone to act, in such a manner as to deprive the Plaintiff of any right to which he was entitled.

5. The Plaintiff was a pretrial detainee and a convicted inmate during his incarceration at the Lee County Detention Center.

6. Internal grievance procedures at the Lee County Detention Center are available to all inmates. It is the policy of the Lee County Sheriff's Office that inmates are permitted to submit grievances and that each grievance will be acted upon. It is the policy of the Lee County Sheriff's Office that members of the Detention Center staff receive and answer any written grievances or requests made by inmates to the sheriff, chief deputy sheriff, or Detention Center personnel.

7. Inmates housed in the Lee County Detention Center are furnished with inmate request forms for the purpose of stating their requests or grievances in writing. Detention Center personnel are charged with the responsibility of receiving and forwarding these forms to the proper authority at any time they are offered a completed form by an inmate. The officer receiving the request form is to answer the request if possible. If that officer is unable to answer the request, he is to forward it to the appropriate individual and/or up the chain of command until the request is answered. If the request form is directed to a particular officer, the officer receiving the request will forward the request to the officer to whom the request is directed. If the officer to whom the request is directed is not on duty that day, the request will be addressed on that officer's next scheduled working day.

8. All inmates are provided a copy of the Lee County Detention Center Inmate Handbook when they are booked into the jail. The inmate handbook states that an inmate may report a grievance on an inmate request form. Grievances are first answered by the appropriate staff at the lowest level in the chain of command. The inmate handbook also states that if the

inmate is not satisfied with the first answer to his grievance, the inmate may appeal all the way up the chain of command, up to the Sheriff, who will make the final decision.

9. I have never received any request form from the Plaintiff concerning any of the allegations of his Complaint. Per Lee County Sheriff's Office policy, an inmate has the opportunity to appeal any grievance to me if he were not satisfied with the response at the lower levels in the chain of command. The Plaintiff has not appealed any grievance to me. Accordingly, the Plaintiff has failed to exhaust his administrative remedies at the Lee County Detention Center.

10. A copy of all grievances are filed in the inmate's file. However, Plaintiff's Inmate File contains no grievances regarding the subjects of his Complaint. Had the Plaintiff made a request concerning any other allegations of his Complaint a copy would have been placed in the Plaintiff's inmate file.

11. It is the policy of the Lee County Detention Center that inmates are served three meals each day at regularly scheduled times. Strict sanitary practices are followed in the Detention Center kitchen. At least two of these meals are hot and there is no more than 14 hours between the evening meal and breakfast. All meals are served at the appropriate temperature as soon as possible after they are prepared. Hot meals are served using heated carts so that the food is hot when served to each inmate. The individuals who pass out the food are required to wear gloves.

12. In the event that the number of inmates exceeds the number of beds in the Lee County Detention Center, the inmates will be provided with either a portable bed or a mattress a blanket and bed linens. Inmates are never required to sleep on the floor without a mattress. All inmates at the Lee County Detention Center are assigned a mattress, bed linens and a blanket.

13. It is the policy of the Lee County Sheriff to maintain a healthy environment within the Lee County Detention Center for the benefit of both inmates and the Detention Center staff. It is the policy of the Lee County Sheriff that the staff of the Lee County Detention Center maintain strict sanitation practices which will provide persons incarcerated in the Detention Center and members of the Detention Center staff with a healthy and sanitary living and working environment. It is the policy of the Lee County Sheriff's Office to maintain a housekeeping plan at the Lee County Detention Center in order that all areas of the Detention Center are kept clean and sanitary. Inmate housing areas are cleaned by the inmates assigned to that cell at least two times daily. The first and second shift supervisors ensure that appropriate cleaning supplies and equipment are issued to inmates and ensure that inmates are properly instructed to clean their cells and common areas. Each cleaning consists of the following: Floors are swept and mopped. Toilets are scrubbed with toilet cleanser and disinfectant. Sinks and showers are scrubbed with scouring cleanser and disinfectant. Tables and benches are washed. Bunks and sleeping areas are made clean and orderly. Trash receptacles are emptied and washed daily. The shift supervisor on duty will require inmates to re-clean any areas which are not cleaned correctly the first time. The Lee County Detention Center staff also uses a steam sanitizer on a regular basis to clean the shower areas of the Center. Inmates also have access to cleaning materials at any time during the day so that they may clean their showers.

14. It is the policy of the Lee County Sheriff's Office to maintain a high level of pest and vermin control within the Lee County Detention Center in order to ensure a minimum level of pest infestation. The chief deputy sheriff ensures that all areas of the Lee County Detention Center are sprayed with insecticide at least once each month. This

company will spray more than once a month if necessary. A licensed pest control service is contracted to provide control for vermin and insects. Detention Center personnel utilize this service to the maximum extent allowed in order to prevent and control the infestation of pests and vermin. Shift supervisors ensure that all appropriate areas of the Detention Center are treated with any additional insecticides or powders necessary as directed by the chief deputy. All shift supervisors, when conducting daily housekeeping inspections, look for possible or potential pest problems.

15. It is the policy of the Lee County Sheriff that the Lee County Detention Center accomplish scheduled maintenance in order to ensure that the Detention Center facility and equipment are kept in good repair. Plumbing should be maintained in a serviceable condition, be free from leakage, have enough pressure to accomplish the tasks intended, and water should be the appropriate temperature. An inmate has the opportunity to notify any officer if any toilet is not in working order, and that officer will either fix the toilet or immediately contact maintenance personnel to fix the toilet. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair any toilet or speaker which is broken. Inmates have access to three or four toilets within their cellblock. There is a toilet in each cell in the cellblock. There is also a toilet in the dayroom of each cellblock. In the event that a toilet cannot be repaired before the inmates lock down in their cells at night, any inmate housed in the cell with the broken toilet is to be given the opportunity to use the toilet during any time that he needs to during the night. It would be a direct violation of policy for an inmate to ever be denied access to a working toilet.

16. A member of the Detention Center staff must inspect the entire Detention Center facility at least once each hour. However, at least one Detention Center staff member is normally in

each inmate hall at least every 15 to 20 minutes. Thus, staff are always made aware of a broken speaker or toilet.

17. I am not aware of a broken speaker in any cell in which Plaintiff was incarcerated. Due to inmate vandalism and misuse, toilets will often require maintenance at the Lee County Detention Center. However, this maintenance is taken care of as soon as possible. Should a speaker be broken, it would also be repaired as soon as possible. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair items such as toilets or speakers in a prompt manner.

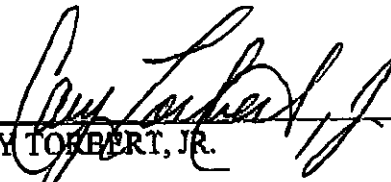
18. Plaintiff claims that a toilet has a water leak "inches" from where he was sleeping. It would be a violation of jail policy to assign an inmate to sleep in water leaking from a toilet or to assign an inmate to sleep within "inches" of a leaking toilet.

19. The Plaintiff did not submit a request concerning any of the allegations in his Complaint. Had I received any such a request, I would have taken the proper steps to remedy any problem the Plaintiff was experiencing.


20. I have complied with all policies and procedures of the Lee County Detention Center. I am not aware of nor have I authorized or allowed any deviation from said policies and procedures.

21. All documents attached to the Special Report are true and accurate copies of jail documents kept by me in the ordinary course of my business. I am the custodian of these records.

22. I swear, to the best of my present knowledge and information that the above statements are true, that I am competent to make this affidavit and that the above statements were made by drawing from my personal knowledge of the situation.

  
CARY TOIBERT, JR.

SWORN TO and SUBSCRIBED before me this 30 day of May, 2007.

  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES FEB. 5, 2011

**Exhibit C**  
**Affidavit of Sheriff Jay Jones**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**WESLEY KEITH HOLMES, JR.,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** ) **Civil Action No. 3:07-cv-00241-WKW**  
 )  
 **SHERIFF JAY JONES, et al.,** )  
 )  
 **Defendants.** )

**AFFIDAVIT OF JAY JONES**

**STATE OF ALABAMA** )  
 )  
 **COUNTY OF LEE** )

**BEFORE ME**, the undersigned authority and Notary Public in and for said County and State at large, personally appeared Jay Jones, who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Jay Jones. I am over the age of nineteen and competent to execute this affidavit.

2. I am the duly elected Sheriff of Lee County, Alabama, and have served in such capacity since 1999.

3. I am familiar with the Plaintiff Wesley Keith Holmes due to his incarceration in the Lee County Detention Center.

4. I have delegated the responsibility for the day-to-day functions of the Lee County Detention Center to Major Cary Torbert, Jr., the Chief Deputy of Corrections of the Lee County

Detention Center. As sheriff of Lee County, I am responsible for promulgating the policies governing the Lee County Detention Center

5. I have no personal knowledge of any of the specific allegations that form the basis of Plaintiff's Complaint.

6. As Sheriff of Lee County, I am responsible for promulgating the policies governing the Lee County Detention Center.

7. I state affirmatively that I neither acted, nor caused anyone to act, in such a manner as to deprive the Plaintiff of any right to which he was entitled.

8. Internal grievance procedures at the Lee County Detention Center are available to all inmates. It is the policy of the Lee County Sheriff's Office that inmates are permitted to submit grievances and that each grievance will be acted upon. It is the policy of the Lee County Sheriff's Office that members of the Detention Center staff receive and answer any written grievances or requests made by inmates to the sheriff, chief deputy sheriff, or Detention Center personnel.

9. Inmates housed in the Lee County Detention Center are furnished with inmate request forms for the purpose of stating their requests or grievances in writing. Detention Center personnel are charged with the responsibility of receiving and forwarding these forms to the proper authority at any time they are offered a completed form by an inmate. The officer receiving the request form is to answer the request if possible. If that officer is unable to answer the request, he is to forward it to the appropriate individual and/or up the chain of command until the request is answered. If the request form is directed to a particular officer, the officer receiving the request will forward the request to the officer to whom the request is directed. If the officer to whom the request

is directed is not on duty that day, the request will be addressed on that officer's next scheduled working day.

10. All inmates are provided a copy of the Lee County Detention Center Inmate Handbook when they are booked into the jail. The inmate handbook states that an inmate may report a grievance on an inmate request form. Grievances are first answered by the appropriate staff at the lowest level in the chain of command. The inmate handbook also states that if the inmate is not satisfied with the first answer to his grievance, the inmate may appeal all the way up the chain of command, up to the Sheriff, who will make the final decision.

11. I have never received any grievance or request form from the Plaintiff concerning any of the allegations of his Complaint. Per Lee County Sheriff's Office policy, an inmate has the opportunity to appeal any grievance to me if he were not satisfied with the response at the lower levels in the chain of command. The Plaintiff has not appealed any grievance to me. Accordingly, the Plaintiff has failed to exhaust his administrative remedies at the Lee County Detention Center.

12. It is the policy of the Lee County Detention Center that inmates are served three meals each day at regularly scheduled times. Strict sanitary practices are followed in the Detention Center kitchen. At least two of these meals are hot and there is no more than 14 hours between the evening meal and breakfast. All meals are served at the appropriate temperature as soon as possible after they are prepared. Hot meals are served using heated carts so that the food is hot when served to each inmate. The individuals who pass out the food are required to wear gloves.

13. In the event that the number of inmates exceeds the number of beds in the Lee County Detention Center, the inmates will be provided with either a portable bed or a mattress a

blanket and bed linens. Inmates are never required to sleep on the floor without a mattress. All inmates at the Lee County Detention Center are assigned a mattress, bed linens and a blanket.

14. It is the policy of the Lee County Sheriff to maintain a healthy environment within the Lee County Detention Center for the benefit of both inmates and the Detention Center staff. It is the policy of the Lee County Sheriff that the staff of the Lee County Detention Center maintain strict sanitation practices which will provide persons incarcerated in the Detention Center and members of the Detention Center staff with a healthy and sanitary living and working environment. It is the policy of the Lee County Sheriff's Office to maintain a housekeeping plan at the Lee County Detention Center in order that all areas of the Detention Center are kept clean and sanitary. Inmate housing areas are cleaned by the inmates assigned to that cell at least two times daily. The first and second shift supervisors ensure that appropriate cleaning supplies and equipment are issued to inmates and ensure that inmates are properly instructed to clean their cells and common areas. Each cleaning consists of the following: Floors are swept and mopped. Toilets are scrubbed with toilet cleanser and disinfectant. Sinks and showers are scrubbed with scouring cleanser and disinfectant. Tables and benches are washed. Bunks and sleeping areas are made clean and orderly. Trash receptacles are emptied and washed daily. The shift supervisor on duty will require inmates to re-clean any areas which are not cleaned correctly the first time. The Lee County Detention Center staff also uses a steam sanitizer on a regular basis to clean the shower areas of the Facility. Inmates also have access to cleaning materials at any time during the day so that they may clean their showers.

15. It is the policy of the Lee County Sheriff's Office to maintain a high level of pest and vermin control within the Lee County Detention Center in order to ensure a

minimum level of pest infestation. The chief deputy sheriff ensures that all areas of the Lee County Detention Center are sprayed with insecticide at least once each month. This company will spray more than once a month if necessary. A licensed pest control service is contracted to provide control for vermin and insects. Detention Center personnel utilize this service to the maximum extent allowed in order to prevent and control the infestation of pests and vermin. Shift supervisors ensure that all appropriate areas of the Detention Center are treated with any additional insecticides or powders necessary as directed by the chief deputy. All shift supervisors, when conducting daily housekeeping inspections, look for possible or potential pest problems.

16. It is the policy of the Lee County Sheriff that the Lee County Detention Center accomplish scheduled maintenance in order to ensure that the Detention Center facility and equipment are kept in good repair. Plumbing should be maintained in a serviceable condition, be free from leakage, have enough pressure to accomplish the tasks intended, and water should be the appropriate temperature. An inmate has the opportunity to notify any officer if any toilet is not in working order, and that officer will either fix the toilet or immediately contact maintenance personnel to fix the toilet. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair any toilet or speaker which is broken. Inmates have access to three or four toilets within their cellblock. There is a toilet in each cell in the cellblock. There is also a toilet in the dayroom of each cellblock. In the event that a toilet cannot be repaired before the inmates lock down in their cells at night, any inmate housed in the cell with the broken toilet is to be given the opportunity to use the toilet during any time that he needs to during the night. It would be a direct violation of policy for an inmate to ever be denied access to a working toilet.

17. A member of the Detention Center staff must inspect the entire Detention Center facility at least once each hour. However, at least one Detention Center staff member is normally in each inmate hall at least every 15 to 20 minutes. Thus, staff are always made aware of a broken speaker or toilet.

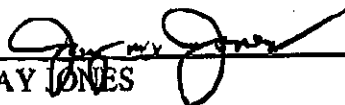
18. I am not aware of a broken speaker in any cell in which Plaintiff was incarcerated. Due to inmate vandalism and misuse, toilets will often require maintenance at the Lee County Detention Center. However, this maintenance is taken care of as soon as possible. Should a speaker be broken, it would also be repaired as soon as possible. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair items such as toilets or speakers in a prompt manner.

19. Plaintiff claims that a toilet has a water leak "inches" from where he was sleeping. It would be a violation of jail policy to assign an inmate to sleep in water leaking from a toilet or to assign an inmate to sleep within "inches" of a leaking toilet.

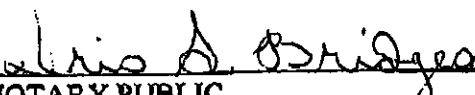
20. The Plaintiff did not submit a request concerning any of the allegations in his Complaint. Had I received any such a request, I would have taken the proper steps to remedy any problem the Plaintiff was experiencing.

21. I have complied with all policies and procedures of the Lee County Detention Center. I am not aware of nor have I authorized or allowed any deviation from said policies and procedures.

22. I swear, to the best of my present knowledge and information that the above statements are true, that I am competent to make this affidavit and that the above statements were made by drawing from my personal knowledge of the situation.

  
JAY JONES

SWORN TO and SUBSCRIBED before me this 30 day of May, 2007.

  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES FEB. 5, 2011

**Exhibit D**  
**Affidavit of Corey Welch**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**WESLEY KEITH HOLMES, JR.,**

**Plaintiff,**

**v.**

**SHERIFF JAY JONES, et al.,**

**Defendants.**

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**Civil Action No. 3:07-cv-00241-WKW**

**AFFIDAVIT OF COREY WELCH**

**STATE OF ALABAMA**

**COUNTY OF LEE**

)  
)  
)

**BEFORE ME**, the undersigned authority and Notary Public in and for said County and State at large, personally appeared Corey Welch, who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Corey Welch. I am over the age of nineteen and competent to execute this affidavit.

2. I am employed by the Lee County Sheriff's Office and assigned to serve as a corrections officer at the Lee County Detention Center. I have worked as a correctional officer for over ten years, having obtained the rank of Lieutenant in November 2004. I am both a graduate of the Police Academy and the Alabama Jail Management School. Lt. Roberson and I are the highest ranking jail officials under Major Torbert and Sheriff Jones.

3. I am familiar with the Plaintiff Wesley Keith Holmes due to his incarceration in the Lee County Detention Center.

4. I state affirmatively that I neither acted, nor caused anyone to act, in such a manner as to deprive the Plaintiff of any right to which he was entitled.

5. Internal grievance procedures at the Lee County Detention Center are available to all inmates. It is the policy of the Lee County Sheriff's Office that inmates are permitted to submit grievances and that each grievance will be acted upon. It is the policy of the Lee County Sheriff's Office that members of the Detention Center staff receive and answer any written grievances or requests made by inmates to the sheriff, chief deputy sheriff, or Detention Center personnel.

6. Inmates housed in the Lee County Detention Center are furnished with inmate request forms for the purpose of stating their requests or grievances in writing. Detention Center personnel are charged with the responsibility of receiving and forwarding these forms to the proper authority at any time they are offered a completed form by an inmate. The officer receiving the request form is to answer the request if possible. If that officer is unable to answer the request, he is to forward it to the appropriate individual and/or up the chain of command until the request is answered. If the request form is directed to a particular officer, the officer receiving the request will forward the request to the officer to whom the request is directed. If the officer to whom the request is directed is not on duty that day, the request will be addressed on that officer's next scheduled working day.

7. All inmates are provided a copy of the Lee County Detention Center Inmate Handbook when they are booked into the jail. The inmate handbook states that an inmate may report a grievance on an inmate request form. Grievances are first answered by the appropriate

staff at the lowest level in the chain of command. The inmate handbook also states that if the inmate is not satisfied with the first answer to his grievance, the inmate may appeal all the way up the chain of command, up to the Sheriff, who will make the final decision.

8. I have never received any request form from the Plaintiff concerning any of the allegations of his Complaint. Per Lee County Sheriff's Office policy, an inmate has the opportunity to appeal any grievance to me if he were not satisfied with the response at the lower levels in the chain of command. The Plaintiff has not appealed any grievance to me. Accordingly, the Plaintiff has failed to exhaust his administrative remedies at the Lee County Detention Center.

9. A copy of all grievances are filed in the inmate's file. However, Plaintiff's Inmate File contains no grievances regarding the subjects of his Complaint. Had the Plaintiff made a request concerning any other allegations of his Complaint a copy would have been placed in the Plaintiff's inmate file.

10. It is the policy of the Lee County Detention Center that inmates are served three meals each day at regularly scheduled times. Strict sanitary practices are followed in the Detention Center kitchen. At least two of these meals are hot and there is no more than 14 hours between the evening meal and breakfast. All meals are served at the appropriate temperature as soon as possible after they are prepared. Hot meals are served using heated carts so that the food is hot when served to each inmate. The individuals who pass out the food are required to wear gloves.

11. In the event that the number of inmates exceeds the number of beds in the Lee County Detention Center, the inmates will be provided with either a portable bed or a mattress a

blanket and bed linens. Inmates are never required to sleep on the floor without a mattress. All inmates at the Lee County Detention Center are assigned a mattress, bed linens and a blanket.

12. It is the policy of the Lee County Sheriff to maintain a healthy environment within the Lee County Detention Center for the benefit of both inmates and the Detention Center staff. It is the policy of the Lee County Sheriff that the staff of the Lee County Detention Center maintain strict sanitation practices which will provide persons incarcerated in the Detention Center and members of the Detention Center staff with a healthy and sanitary living and working environment. It is the policy of the Lee County Sheriff's Office to maintain a housekeeping plan at the Lee County Detention Center in order that all areas of the Detention Center are kept clean and sanitary. Inmate housing areas are cleaned by the inmates assigned to that cell at least two times daily. The first and second shift supervisors ensure that appropriate cleaning supplies and equipment are issued to inmates and ensure that inmates are properly instructed to clean their cells and common areas. Each cleaning consists of the following: Floors are swept and mopped. Toilets are scrubbed with toilet cleanser and disinfectant. Sinks and showers are scrubbed with scouring cleanser and disinfectant. Tables and benches are washed. Bunks and sleeping areas are made clean and orderly. Trash receptacles are emptied and washed daily. The shift supervisor on duty will require inmates to re-clean any areas which are not cleaned correctly the first time. The Lee County Detention Center staff also uses a steam sanitizer on a regular basis to clean the shower areas of the Center. Inmates also have access to cleaning materials at any time during the day so that they may clean their showers.

13. It is the policy of the Lee County Sheriff's Office to maintain a high level of pest and vermin control within the Lee County Detention Center in order to ensure a

minimum level of pest infestation. The chief deputy sheriff ensures that all areas of the Lee County Detention Center are sprayed with insecticide at least once each month. This company will spray more than once a month if necessary. A licensed pest control service is contracted to provide control for vermin and insects. Detention Center personnel utilize this service to the maximum extent allowed in order to prevent and control the infestation of pests and vermin. Shift supervisors ensure that all appropriate areas of the Detention Center are treated with any additional insecticides or powders necessary as directed by the chief deputy. All shift supervisors, when conducting daily housekeeping inspections, look for possible or potential pest problems.

14. It is the policy of the Lee County Sheriff that the Lee County Detention Center accomplish scheduled maintenance in order to ensure that the Detention Center facility and equipment are kept in good repair. Plumbing should be maintained in a serviceable condition, be free from leakage, have enough pressure to accomplish the tasks intended, and water should be the appropriate temperature. An inmate has the opportunity to notify any officer if any toilet is not in working order, and that officer will either fix the toilet or immediately contact maintenance personnel to fix the toilet. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair any toilet or speaker which is broken. Inmates have access to three or four toilets within their cellblock. There is a toilet in each cell in the cellblock. There is also a toilet in the dayroom of each cellblock. In the event that a toilet cannot be repaired before the inmates lock down in their cells at night, any inmate housed in the cell with the broken toilet is to be given the opportunity to use the toilet during any time that he needs to during the night. It would be a direct violation of policy for an inmate to ever be denied access to a working toilet.

15. A member of the Detention Center staff must inspect the entire Detention Center facility at least once each hour. However, at least one Detention Center staff member is normally in each inmate hall at least every 15 to 20 minutes. Thus, staff are always made aware of a broken speaker or toilet.

16. I am not aware of a broken speaker in any cell in which Plaintiff was incarcerated. Due to inmate vandalism and misuse, toilets will often require maintenance at the Lee County Detention Center. However, this maintenance is taken care of as soon as possible. Should a speaker be broken, it would also be repaired as soon as possible. The Lee County Commission has assigned two persons from the County maintenance department to the jail who are available full time to repair items such as toilets or speakers in a prompt manner.

17. Plaintiff claims that a toilet has a water leak "inches" from where he was sleeping. It would be a violation of jail policy to assign an inmate to sleep in water leaking from a toilet or to assign an inmate to sleep within "inches" of a leaking toilet.

18. The Plaintiff did not submit a request concerning any of the allegations in his Complaint. Had I received any such a request, I would have taken the proper steps to remedy any problem the Plaintiff was experiencing.

19. I have complied with all policies and procedures of the Lee County Detention Center. I am not aware of nor have I authorized or allowed any deviation from said policies and procedures.

20. I swear, to the best of my present knowledge and information that the above statements are true, that I am competent to make this affidavit and that the above statements were made by drawing from my personal knowledge of the situation.

  
COREY WELCH

SWORN TO and SUBSCRIBED before me this 30 day of May, 2007.

  
NOTARY PUBLIC

My Commission Expires: MY COMMISSION EXPIRES FEB. 6, 2011

**Exhibit E**  
**Affidavit of Ray Roberson**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**WESLEY KEITH HOLMES, JR.,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** ) **Civil Action No. 3:07-cv-00241-WKW**  
 )  
 **SHERIFF JAY JONES, et al.,** )  
 )  
 **Defendants.** )

**AFFIDAVIT OF RAY ROBERSON**

**STATE OF ALABAMA** )  
 )  
 **COUNTY OF LEE** )

**BEFORE ME**, the undersigned authority and Notary Public in and for said County and State at large, personally appeared Ray Roberson, who being known to me and being by me first duly sworn on oath deposes and says as follows:

1. My name is Ray Roberson. I am over the age of nineteen and competent to execute this affidavit.
2. I am employed with the Lee County Sheriff's Office and serve as Assistant Jail Administrator at the Lee County Detention Center. I have worked in the Lee County Detention Center for twenty-three years and have obtained the rank of lieutenant. Lt. Welch and I are the highest ranking jail officials under Major Torbert and Sheriff Jones.
3. I am familiar with the Plaintiff Anthony Keith Vaughn due to his incarceration in the Lee County Detention Center. However, I have no personal knowledge of any of the facts made the basis of the Plaintiff's Complaint. I was not involved and did not observe any of the incidents alleged in his Complaint.

4. I state affirmatively that I neither acted, nor caused anyone to act, in such a manner as to deprive the Plaintiff of any right to which he was entitled.

5. Internal grievance procedures at the Lee County Detention Center are available to all inmates. It is the policy of the Lee County Sheriff's Office that inmates are permitted to submit grievances and that each grievance will be acted upon. It is the policy of the Lee County Sheriff's Office that members of the Detention Center staff receive and answer any written grievances or requests made by inmates to the sheriff, chief deputy sheriff, or Detention Center personnel.

6. Inmates housed in the Lee County Detention Center are furnished with inmate request forms for the purpose of stating their requests or grievances in writing. Detention Center personnel are charged with the responsibility of receiving and forwarding these forms to the proper authority at any time they are offered a completed form by an inmate. The officer receiving the request form is to answer the request if possible. If that officer is unable to answer the request, he is to forward it to the appropriate individual and/or up the chain of command until the request is answered. If the request form is directed to a particular officer, the officer receiving the request will forward the request to the officer to whom the request is directed. If the officer to whom the request is directed is not on duty that day, the request will be addressed on that officer's next scheduled working day.

7. All inmates are provided a copy of the Lee County Detention Center Inmate Handbook when they are booked into the jail. The inmate handbook states that an inmate may report a grievance on an inmate request form. Grievances are first answered by the appropriate staff at the lowest level in the chain of command. The inmate handbook also states that if the

inmate is not satisfied with the first answer to his grievance, the inmate may appeal all the way up the chain of command up to the Sheriff, who will make the final decision.


8. I have never received any grievance or request form from the Plaintiff concerning any of the allegations of his Complaint. Per Lee County Sheriff's Office policy, an inmate has the opportunity to appeal any grievance to me if he were not satisfied with the response at the lower levels in the chain of command. The Plaintiff has not appealed any grievance to me. Accordingly, the Plaintiff has failed to exhaust his administrative remedies at the Lee County Detention Center.

9. I have complied with all policies and procedures of the Lee County Detention Center. I am not aware of nor have I authorized or allowed any deviation from said policies and procedures.

10. I swear, to the best of my present knowledge and information that the above statements are true, that I am competent to make this affidavit and that the above statements were made by drawing from my personal knowledge of the situation.

  
RAY/ROBERSON

SWORN TO and SUBSCRIBED before me this 30 day of May, 2007.

  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES FEB. 5, 2011